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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SPS. TEDY GARCIA AND PILAR GARCIA, Petitioners,	**G.R. No. 228334**
	Present:
- versus -	CARPIO, *J., Chairperson,* PERLAS-BERNABE, CAGUIOA, J. REYES, JR., and LAZARO-JAVIER, *JJ.*
LORETA T. SANTOS, WINSTON SANTOS AND CONCHITA TAN, Respondents.	Promulgated: 17 JUN 2019

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DECISION

CAGUIOA, *J.*:

Before the Court is a Petition for Review on *Certiorari*[1] (Petition) under Rule 45 of the Rules of Court filed by petitioners Tedy Garcia (Tedy) and Pilar Garcia (Pilar) (collectively the Sps. Garcia), assailing the Decision[2] dated June 30, 2016 (assailed Decision) and Resolution[3] dated October 5, 2016 (assailed Resolution) of the Court of Appeals,[4] (CA, Special 18th Division) in CA-G.R. CEB-CV No. 05701.

The Facts and Antecedent Proceedings

As narrated by the CA in its assailed Decision and as culled from the records of the instant case, the essential facts and antecedent proceedings of the case are as follows:

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[1] *Rollo*, pp. 5-38.
[2] Id. at 40-58. Penned by Associate Justice Germano Francisco D. Legaspi with Associate Justices Marilyn B. Lagura-Yap and Gabriel T. Robeniol, concurring.
[3] Id. at 61-62.
[4] Special Eighteenth (18th) Division and Former Special Eighteenth (18th) Division, respectively.

The instant case stems from a Complaint[5] for "[easements of light, air and view, lateral support, and intermediate distances and damages with prayer for writ of preliminary injunction and/or issuance of temporary restraining order]" (Complaint) filed on February 18, 2009 by the Sps. Garcia against the respondents Spouses Loreta and Winston Santos (the Sps. Santos) and respondent Conchita Tan (Tan) before the Regional Trial Court of Iloilo City, Branch 31 (RTC). The case was docketed as Civil Case No. 09-30023.

As alleged in the Complaint, the Sps. Garcia are the registered owners of Lot 2, Blk. 1, San Jose Street, Southville Subdivision, Molo, Iloilo City (subject property), covered by Transfer Certificate of Title (TCT) No. T-130666.[6]

The subject property, which has been occupied by the Sps. Garcia for about eleven (11) years, has a one-storey residential house erected thereon and was purchased by them from the Sps. Santos in October 1998. At the time of the purchase of the subject property from the Sps. Santos, the one-storey house was already constructed. Also, at the time of the acquisition of the subject property, the adjoining lot, Lot 1, which is owned by the Sps. Santos, was an idle land without any improvements. Lot 1 is covered by TCT No. T-114137,[7] registered under the name of the Sps. Santos. Lot 1 remained empty until the Sps. Santos started the construction of a two-storey residential house therein on January 24, 2009. Upon inquiry from the construction workers, Tedy was erroneously informed that Tan was the new owner of Lot 1.

As further alleged in the Complaint, the building constructed on Lot 1 is taller than the Sps. Garcia's one-storey residential house. As such, the Sps. Santos' building allegedly obstructed the Sps. Garcia's right to light, air, and view. The Sps. Garcia bemoaned how, prior to the construction on Lot 1, they received enough bright and natural light from their windows. The construction allegedly rendered the Sps. Garcia's house dark such that they are unable to do their normal undertakings in the bedroom, living room and other areas of the house without switching on their lights. The Sps. Garcia likewise alleged that the said structure constructed on Lot 1 is at a distance of less than three meters away from the boundary line, in alleged violation of their easement. Furthermore, the Sps. Santos allegedly made excavations on Lot 1 without providing sufficient lateral support to the concrete perimeter fence of the Sps. Garcia.

Hence, in their Complaint, aside from asking for damages, the Sps. Garcia prayed that: the RTC declare them as having acquired the easement of light, air, and view against Lot 1; the respondents be prohibited from

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5 *Rollo*, pp. 64-76.
6 Id. at 78-79.
7 Id. at 77.

constructing any structure on Lot 1 taller than the Sps. Garcia's one-storey residential house; the respondents be prohibited from building any structure on Lot 1 at a distance of less than three meters from the boundary line; and the respondents be prohibited from making excavations on Lot 1 that deprive sufficient lateral support to the fence located on the subject property.

On February 19, 2009, the RTC issued an Order[8] granting a Temporary Restraining Order (TRO) enjoining the Sps. Santos from further undertaking further construction work on Lot 1. The TRO was eventually lifted on March 20, 2009.[9]

In their Amended Answer with Counterclaim[10] dated February 27, 2009, the respondents asserted that Tan was incorrectly impleaded, denying that Tan is involved whatsoever in the matter at hand, with the latter not being the registered owner of Lot 1.

Further, the respondents argued that the Sps. Garcia failed to allege how they acquired the easement of light and view either by prescription or title. The respondents maintained that the mere presence of windows on the one-storey house of the Sps. Garcia in itself does not give rise to an easement by title, stressing that there was no tenement standing on Lot 1 at the time of the construction of the one-storey house standing on the subject property. The respondents also argued that the Sps. Garcia also failed to acquire an easement by prescription because they never alleged that they made a formal prohibition of the construction of a taller structure on Lot 1.

With respect to the Sps. Garcia's claims on easement of lateral and subjacent support, the respondents maintained that such claims are baseless because the excavation works were all made within Lot 1 and were not deep enough to deprive the Sps. Garcia subjacent and lateral support. Moreover, these excavations were already finished without causing any damage to the Sps. Garcia's house.

The trial then ensued, with the Sps. Garcia presenting their testimonial and documentary evidence.

The Sps. Santos' Demurrer to Evidence (CA-G.R. SP No. 06176)

After the Sps. Garcia rested their case, the Sps. Santos filed a Motion to Dismiss (By Way of Demurrer to Evidence)[11] which the RTC denied in its

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8 A copy of which was not attached to the instant Petition. Penned by Presiding Judge Edgardo L. Catilo.
9 *Rollo*, pp. 6-7.
10 Id. at 98-108.
11 A copy of which was not attached to the instant Petition.

Order[12] dated April 28, 2011.

The Sps. Santos then assailed the RTC's denial of their demurrer to evidence by filing a petition for *certiorari*[13] under Rule 65 of the Rules of Court before the CA. The petition was raffled to the Twentieth Division and was docketed as CA-G.R. SP No. 06176.

In its Decision[14] dated May 20, 2013, the CA, Twentieth Division denied the *certiorari* petition of the Sps. Santos for failing to prove that the RTC committed grave abuse of discretion in denying the respondents' demurrer to evidence.

The respondents filed a Motion for Reconsideration[15] dated June 17, 2013, which was denied by the CA, Special Former Twentieth Division in its Resolution[16] dated February 22, 2016. On March 31, 2016, the Decision dated May 20, 2013 rendered by the CA, Twentieth Division became final and executory.[17]

Afterwards, the trial ensued before the RTC, with the Sps. Santos presenting their evidence.

The Ruling of the RTC

In its Decision[18] dated May 28, 2015, the RTC ruled in favor of the Sps. Santos and dismissed the Complaint. The dispositive portion of the aforesaid Decision reads:

> **WHEREFORE, EVERYTHING CONSIDERED**, the herein complaint is hereby **DISMISSED**, the counterclaims are likewise dismissed.
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> Costs de oficio.
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> SO ORDERED.[19]

In sum, the RTC held that the Sps. Garcia never acquired any easement of light and view either by title or by prescription.

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12 A copy of which was not attached to the instant Petition. Penned by Presiding Judge Florian Gregory D. Abalajon.

13 A copy of which was not attached to the instant Petition.

14 *Rollo*, pp. 122-137-A. Penned by Associate Justice Ma. Luisa C. Quijano-Padilla with Associate Justices Ramon Paul L. Hernando (now a member of the Court) and Carmelita Salandanan-Manahan, concurring.

15 A copy of which was not attached to the instant Petition.

16 *Rollo*, pp. 141-143. Penned by Associate Justice Geraldine C. Fiel-Macaraig with Associate Justices Edgardo L. Delos Santos and Edward B. Contreras, concurring.

17 Id. at 147-148.

18 Id. at 109-120. Penned by Presiding Judge Rene S. Hortillo.

19 Id. at 120.

Hence, the Sps. Garcia appealed the RTC's Decision before the CA, Special 18th Division.[20] The appeal was docketed as CA-G.R. CEB-CV No. 05701.

The Ruling of the CA, Special 18th Division

In its assailed Decision, the CA, Special 18th Division denied the appeal for lack of merit, the dispositive portion of which reads:

> **WHEREFORE,** the appeal is **DENIED**. The 28 May 2015 *Decision* of the Regional Trial Court of Iloilo City, Branch 31 in Civil Case No. 09-30023 is **AFFIRMED**.
>
> **SO ORDERED.**[21]

Agreeing in *toto* with the RTC, the CA held that the Sps. Garcia never acquired an easement of light and view under the pertinent provisions of the Civil Code.

The Sps. Garcia filed a Motion for Reconsideration[22] dated August 4, 2016, which was denied by the CA, Former Special 18th Division in its assailed Resolution.

Hence, the instant Petition for Review on *Certiorari* filed by the Sps. Garcia under Rule 45 of the Rules of Court.

The respondents filed their Comment (To the Petition dated October 28, 2016)[23] dated June 20, 2017, to which the Sps. Garcia responded with their Reply[24] dated November 9, 2017.

Issues

Stripped to its core, the instant Petition presents two main issues for the Court's disposition: (1) whether, in view of the CA, Twentieth Division's final and executory Decision dated May 20, 2013 in CA-G.R. SP No. 06176, the doctrine of the law of the case finds application; and (2) whether the Sps. Garcia have acquired an easement of light and view with respect to Lot 1 owned by the Sps. Santos.

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20 The instant Petition and the attached records fail to indicate whether the Sps. Garcia filed a Motion for Reconsideration of the RTC's Decision dated May 28, 2015.

21 *Rollo*, p. 58.

22 A copy of which was not attached to the instant Petition.

23 *Rollo*, pp. 158-184.

24 Id. at 194-204.

The Court's Ruling

In deciding the merits of the instant Petition, the Court shall resolve the issues in *seriatim*.

I. The doctrine of the law of the case not applicable in the instant case

In the instant Petition, the Sps. Garcia make the argument that the doctrine of the law of the case applies in the instant case, considering that the CA, Twentieth Division's final and executory Decision dated May 20, 2013 in CA-G.R. SP No. 06176 expressly and categorically found that "[t]here is an acquired easement of light, air and view in favor of [the Sps. Garcia]"[25] based on Article 624 of the Civil Code[26] and the decided cases of *Amor v. Florentino*[27] and *Gargantos v. Tan Yanon*,[28] and that "the contention of [the respondents] that the mere opening of windows and doors does not constitute an easement is therefore refuted."[29]

The argument is unmeritorious.

The doctrine of the law of the case states that whatever has once been irrevocably established as the controlling legal rule of decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court.[30]

Citing *Mercury Group of Co., Inc. v. Home Dev't Mutual Fund*,[31] the CA, Special 18th Division was correct in explaining that the aforesaid doctrine applies only when there has been **a prior decision on the merits**:

> "Law of the case" has been defined as the opinion delivered on a former appeal. . . . **It is a rule of general application that the decision of an appellate court in a case is the law to the case on the points presented throughout all the subsequent proceedings in the case** in both the trial and appellate courts and no question necessarily involved and decided on that appeal will be considered on a second appeal or writ of error in the same case, provided the facts and issues are substantially the same as those on which the first question rested and, according to some authorities, provided **the decision is on the merits**. x x x[32]

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25 Id. at 132; emphasis and italics omitted.
26 Id. at 132-133.
27 Id. at 132; 74 Phil. 403 (1943).
28 Id.; 108 Phil. 888 (1960).
29 Id. at 137.
30 *Boiser v. National Telecommunications Commission*, 251 Phil. 174, 180 (1989).
31 565 Phil. 510 (2007), citing *Jarantilla v. Court of Appeals*, 253 Phil. 425 (1989).
32 Id.

The CA, Twentieth Division's final and executory Decision dated May 20, 2013 relied upon by the Sps. Garcia was not a final and executory decision on the merits of the case as it dealt solely on the issue of whether the RTC committed grave abuse of discretion in denying the respondents' demurrer to evidence.

In fact, the CA, Twentieth Division was unequivocal in explaining that it discussed "the issue on easement of light, air and view not so much to address the merit of the petition but to illustrate the extent by which [the Sps. Garcia] have relentlessly pursued their claim."[33]

Hence, the first issue posed by the Sps. Garcia is denied.

II. The easement of light and view imposed on Lot 1 acquired by the Sps. Garcia

Having disposed of the first issue, the Court shall now decide whether the Sps. Garcia have indeed acquired an easement of light and view, imposing a burden on Lot 1 not to obstruct the subject property's free access to light and view. The Court notes that the issues surrounding the alleged easement of lateral and subjacent support were no longer pursued by the Sps. Garcia in the instant Petition. Hence, the Court's Decision shall focus exclusively on the easement of light and view purportedly acquired by the Sps. Garcia as against the Sps. Santos' Lot 1.

Considering that the jurisprudence on the concept of easements of light and view is not in abundance, this is an opportune time for the Court to explain clearly and resolutely the rules regarding the acquisition of an easement of light and view vis-à-vis several parcels of land owned by separate owners that were previously owned by a single owner, and the distances that must be observed in relation thereto.

The Concept of Easements and the Easement of Light and View

According to Article 613 of the Civil Code, an easement or servitude is an encumbrance imposed upon an immovable for the benefit of another immovable belonging to a different owner. The immovable in favor of which the easement is established is called the dominant estate; that which is subject thereto, the servient estate.

As defined by jurisprudence, an easement is "a real right on another's property, corporeal and immovable, whereby the owner of the latter must refrain from doing or allowing somebody else to do or something to be done on his property, for the benefit of another person or tenement. Easements are

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[33] *Rollo*, p. 132; underscoring supplied.

established either by law or by the will of the owner. The former are called legal, and the latter, voluntary easements."[34] An easement has been described as "a real right which burdens a thing with a prestation consisting of determinate servitudes for the exclusive enjoyment of a person who is not its owner or of a tenement belonging to another."[35]

Legal easements are ones imposed by law, and which have, for their object, either public use or interest of private persons,[36] as opposed to voluntary easements that are established by the agreements of the parties. The different legal easements are: (a) easement relating to waters; (b) right of way; (c) party wall; (d) light and view; (e) drainage; (f) intermediate distances; (g) easement against nuisance; and (h) lateral and subjacent support.[37]

The legal easement called easement of light and view refers to an easement whereby the dominant estate enjoys the right to have free access to light, a little air, and a view overlooking the adjoining estate, *i.e.*, the servient estate.[38]

The easement of light and view has two components. The easement of light or *jus luminum* has the purpose of admitting light and a little air, as in the case of small windows, not more than 30 centimeters square, at the height of the ceiling joists or immediately under the ceiling.[39] On the other hand, the easement of view or *servidumbre prospectus*[40] has the principal purpose of affording view, as in the case of full or regular windows overlooking the adjoining estate.[41]

Explained otherwise, the easement of light is the right to make openings under certain conditions in order to receive light from another's tenement while the easement of view is the right to make openings or windows, to enjoy the view through the estate of another and the power to prevent all constructions or works which would obstruct such view or make the same difficult.[42] The easement of view is broader than the easement of light because the latter is always included in the former.[43]

As held by jurisprudence, the easement of light and view is intrinsically intertwined with the easement of the servient estate not to build higher or *altius non tollendi*. These two necessarily go together

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34 *Unisource Commercial and Dev't Corp. v. Chung*, 610 Phil. 642, 649 (2009).
35 Eduardo P. Caguioa, COMMENTS AND CASES ON CIVIL LAW, CIVIL CODE OF THE PHILIPPINES, 3rd ed., 1966, Vol. II, p. 261.
36 Civil Code, Art. 634.
37 Edgardo L. Paras, CIVIL CODE OF THE PHILIPPINES ANNOTATED, 17th ed., 2013, Vol. II, pp. 684-685.
38 Id. at 715.
39 Id. See CIVIL CODE, Art. 669.
40 Also known as *jus prospectus*. Caguioa, supra note 35, at 309.
41 Paras, supra note 37, at 715.
42 Caguioa, supra note 35, at 309-310, citations omitted.
43 Id. at 310.

"because an easement of light and view requires that the owner of the servient estate shall not build to a height that will obstruct the window."[44]

In the instant case, the Sps. Garcia assert that since they have acquired by title an easement of light and view, the owner of the adjacent servient estate, *i.e.*, the Sps. Santos, is proscribed from building a structure that obstructs the window of their one-storey house.

Classification of Easements as Positive and Negative Easements

Article 616 of the Civil Code states that easements may be classified into positive and negative easements. A positive easement is one which imposes upon the owner of the servient estate the obligation of allowing something to be done or of doing it himself. On the other hand, a negative easement is that which prohibits the owner of the servient estate from doing something which he could lawfully do if the easement did not exist.

What is the significance of determining whether an easement is positive or negative? Such determination is consequential in determining how an easement is acquired.

According to Article 621 of the Civil Code, in order to acquire easements by prescription in positive easements, the prescriptive period shall commence from the day on which the owner of the dominant estate, or the person who may have made use of the easement, commenced to exercise it upon the servient estate.

With respect to negative easements, the prescriptive period shall commence from the day on which the owner of the dominant estate forbade, by an instrument acknowledged before a notary public, the owner of the servient estate, from executing an act which would be lawful without the easement.

Easement of Light and View as a Positive and Negative Easement

How then is an easement of light and view classified? Is it a positive or a negative easement?

The answer is it may be both; an easement of light and view may either be positive or negative.

As a general rule, an easement of light and view is a **positive** one if the window or opening is situated in a **party wall**, while it is a **negative** one

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[44] *Amor v. Florentino*, supra note 27, at 409.

if the window or opening is thru **one's own wall**, *i.e.*, thru a wall of the dominant estate.[45] However, "[e]ven if the window is on one's own wall, still the easement would be positive if the window is on a balcony or projection extending over into the adjoining land."[46]

In the instant case, it is not disputed that the windows and other openings, which are allegedly now prevented from receiving light and view due to the structure built by the Sps. Santos on Lot 1, are made in the wall of Sps. Garcia's one-storey-house. There is no party wall alleged to be co-owned by the parties.

In the very early case of *Cortes v. Yu-Tibo*,[47] the Court held that **the easement of light and view in the case of windows opened in one's own wall is negative**. As such easement is a negative one, it cannot be acquired by prescription except where sufficient time of possession has elapsed after the owner of the dominant estate, by a **formal act**, has prohibited the owner of the servient estate from doing something which would be lawful but for the easement.[48]

The phrase "formal act" would require not merely any writing, but one executed in due form and/or with solemnity.[49] This is expressly stated in Article 668 of the Civil Code which states that the period of prescription for the acquisition of an easement of light and view shall be counted: (1) from the time of the opening of the window, if it is through a party wall; or (2) **from the time of the formal prohibition upon the proprietor of the adjoining land or tenement, if the window is through a wall on the dominant estate**.

It is from these legal premises that the RTC and CA, Special 18th Division based their holdings that the Sps. Garcia "never acquired an easement of light and view under Article 668 of the Civil Code for failure to serve a notarial prohibition."[50] It is not disputed that the Sps. Garcia never sent the Sps. Santos any formal notice or notarial prohibition enjoining the latter from constructing any building of higher height on Lot 1. Hence, the RTC and CA, Special 18th Division made the conclusion that the Sps. Garcia failed to acquire an easement of light and view in relation to the adjacent Lot 1.

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45 Paras, supra note 37, at 716-717, citing *Cortes v. Yu-Tibo*, 2 Phil. 24 (1903).

46 Id. at 717, citing *Fabie v. Lichauco*, 11 Phil. 14 (1908). This observation should be read in the light of Article 670 of the Civil Code, which provides that:

> x x x No windows, apertures, balconies, or other similar projections which afford a direct view upon or towards an adjoining land or tenement can be made, without leaving a distance of two meters between the wall in which they are made and such contiguous property.
>
> Neither can side or oblique views upon or towards such conterminous property be had, unless there be a distance of sixty centimeters.
>
> The nonobservance of these distances does not give rise to prescription.

47 Supra note 45.

48 Id.

49 *Cid v. Javier*, 108 Phil. 850, 852 (1960).

50 *Rollo*, p. 56.

Nevertheless, the Court finds that the aforesaid holding of the RTC and CA, Special 18th Division is ***incorrect*** **in view of Article 624 of the Civil Code**.

Article 624 – The Existence of an Apparent Sign of Easement between Two Estates formerly owned by a Single Owner considered a Title to Easement of Light and View

While it is a general rule that a window or opening situated on the wall of the dominant estate involves a negative easement, and, thus, may only be acquired by prescription, tacked from the time of the formal prohibition upon the proprietor of the servient estate, it is not true that all windows or openings situated on the wall of the dominant estate may only be acquired through prescription.

Aside from prescription, easements may likewise be acquired through ***title***.[51] The term "title" does not necessarily mean a document. Instead, it refers to a juridical act or law sufficient to create the encumbrance.[52] One such legal proviso which grants title to an easement is found in **Article 624 of the Civil Code**.

Article 624 of the Civil Code reads:

> x x x. The existence of an apparent sign of easement between two estates, established or maintained by the owner of both, shall be considered, should either of them be alienated, as a title in order that the easement may continue actively and passively, unless, at the time the ownership of the two estates is divided, the contrary should be provided in the title of conveyance of either of them, or the sign aforesaid should be removed before the execution of the deed. This provision shall also apply in case of the division of a thing owned in common by two or more persons.

The aforesaid article is based on Article 541 of the Spanish Civil Code, which reads:

> x x x. The existence of an apparent sign of an easement between two estates established by the owner of both shall be considered, should one of them be alienated, as a title for the active and passive continuation of the easement, unless, at the time of the division of the ownership of the two properties, the contrary should be expressed in the deed of conveyance of either of them, or the sign is obliterated before the execution of the instrument.

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51 ART. 620. Continuous and apparent easements are acquired either by virtue of a title or by prescription of ten years.

x x x x

ART. 622. Continuous nonapparent easements, and discontinuous ones, whether apparent or not, may be acquired only by virtue of a title.

52 Paras, supra note 37, at 659.

The mode of acquiring an easement under Article 624 is a "legal presumption or apparent sign."[53] Article 624 finds application in situations wherein two or more estates were previously owned by a singular owner, or even a single estate but with two or more portions being owned by a singular owner.[54] Originally, there is no true easement that exists as there is only one owner. Hence, at the outset, no other owner is imposed with a burden.[55] Subsequently, one estate or a portion of the estate is alienated in favor of another person, wherein, in that estate or portion of the estate, **an apparent visible sign of an easement exists**. According to Article 624, **there arises a title to an easement of light and view, even in the absence of any formal act undertaken by the owner of the dominant estate, if this apparent visible sign, such as the existence of a door and windows, continues to remain and subsist**, unless, at the time the ownership of the two estates is divided, (1) the contrary should be provided in the title of conveyance of either of them, or (2) the sign aforesaid should be removed before the execution of the deed.

This is precisely the situation that has occurred in the instant case. Prior to the purchase of the subject property by the Sps. Garcia in 1998, the subject property and its adjoining lot, *i.e.*, Lot 1, were both owned by singular owners, *i.e.*, the Sps. Santos. On the subject property, a one-storey house laden with several windows and openings was built and the windows and openings remained open. Then on October 1998, the subject property, together with the one-storey structure, was alienated in favor of the Sps. Garcia, while the Sps. Santos retained the adjoining Lot 1.

Jurisprudence has recognized that Article 624 is an exception carved out by the Civil Code that must be taken out of the coverage of the general rule that an easement of light and view in the case of windows opened in one's own wall is a negative easement that may only be acquired by prescription, tacked from a formal prohibition relayed to the owner of the servient estate.

As explained in *Amor v. Florentino*, the very decision in *Cortes v. Yu-Tibo*, while holding that the easement of light and view in situations involving openings situated on the wall of the dominant estate is a negative easement that may only be acquired by prescription tacked from formal prohibition, "**distinguishes that case from the situation foreseen in article 541 [now Article 624 of the Civil Code].**"[56]

In *Cortes v. Yu-Tibo*, there were two different owners of two separate houses from the beginning, which is a situation different from that presented under Article 624 where there is only one original owner of the two structures. *Cortes v. Yu-Tibo* itself explicitly differentiates the situation

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53 Caguioa, supra note 35, at 276.
54 Paras, supra note 37, at 671.
55 Id. at 667.
56 *Amor v. Florentino*, supra note 27, at 413; emphasis supplied.

presented therein and the special situation contemplated under then Article 541 of the Spanish Civil Code, which is now Article 624 of the Civil Code, wherein no formal act is needed to acquire easement of light and view:

> x x x It is true that the supreme court of Spain, in its decisions of February 7 and May 5, 1896, has classified as positive easements of lights which were the object of the suits in which these decisions were rendered in cassation, and from these it might be believed at first glance[,] that the former holdings of the supreme court upon this subject had been overruled. But this is not so, as a matter of fact, inasmuch as there is no conflict between these decisions and the former decisions above cited.
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> **In the first of the suits referred to, the question turned upon two houses which had formerly belonged to the same owner, who established a service of light on one of them for the benefit of the other**. These properties were subsequently conveyed to two different persons, but at the time of the separation of the property nothing was said as to the discontinuance of the easement, nor were the windows which constituted the visible sign thereof removed. The new owner of the house subject to the easement endeavored to free it from the incumbrance, notwithstanding the fact that the easement had been in existence for thirty-five years, and alleged that the owner of the dominant estate had not performed any act of opposition which might serve as a starting point for the acquisition of a prescriptive title. The supreme court, in deciding this case, on the 7th of February, 1896, held that **the easement in this particular case was positive, because it consisted in the *active* enjoyment of the light. This doctrine is doubtless based upon article 541 of the Code**, which is of the following tenor: "The existence of apparent sign of an easement between two tenements, established by the owner of both of them, shall be considered, should one be sold, as a title for the active and passive continuance of the easement, unless, at the time of the division of the ownership of both tenements, the contrary should be expressed in the deed of conveyance of either of them, or such sign is taken away before the execution of such deed."
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> **The word *"active"* used in the decision quoted in classifying the particular enjoyment of light referred to therein, presupposes on the part of the owner of the dominant estate a right to such enjoyment arising, in the particular case passed upon by that decision, from the voluntary act of the original owner of the two houses, by which he imposed upon one of them an easement for the benefit of the other**. It is well known that easements are established, among other cases, by the will of the owners. (Article 536 of the Code) It was an act which was, in fact, respected and acquiesced in by the new owner of the servient estate, since he purchased it without making any stipulation against the easement existing thereon, but, on the contrary, acquiesced in the continuance of the apparent sign thereof. As is stated in the decision itself, "It is a principle of law that upon a division of a tenement among various persons—in the absence of any mention in the contract of a mode of enjoyment different from that to which the former owner was accustomed—such easements as may be necessary for the continuation of such enjoyment are understood to subsist." It will be seen, then, that the phrase "active enjoyment" involves an idea directly

> opposed to the enjoyment which is the result of a mere tolerance on the part of the adjacent owner, and which, as it is not based upon an absolute, enforceable right, may be considered as of a merely passive character. **Therefore, the decision in question is not in conflict with the former rulings of the supreme court of Spain upon the subject, inasmuch as it deals with an easement of light established by the owner of the servient estate, and which continued in force after the estate was sold, in accordance with the special provisions of article 541 of the Civil Code.**[57]

Application of the Court's Decisions in Amor v. Florentino, and Gargantos v. Tan Yanon to the Instant Case

The rulings of the Court in *Amor v. Florentino* and *Gargantos v. Tan Yanon*, which involve situations that are almost completely analogous to the instant case, are enlightening.

In these cases, like the case at hand, several properties were once owned by a single owner, wherein in one of the properties, a structure with windows and other openings was put up. Subsequently, the adjacent property was transferred to a different owner, wherein a structure was built thereon obstructing the windows and other openings found on the adjacent lot.

In *Amor v. Florentino,* one Maria Florentino (Maria) owned a house and a *camarin* or warehouse located in Vigan, Ilocos Sur. The house had, on the north side, three windows on the upper storey, and a fourth one on the ground floor. Through these windows, the house received light and air from the adjacent lot where the *camarin* stood.

On September 6, 1885, Maria made a will, devising the house and the land on which it was situated to Gabriel Florentino, one of the respondents therein, and to Jose Florentino, father of the other respondents therein. In said will, the testatrix also devised the warehouse and the lot where it was situated to Maria Encarnacion Florentino (Maria Encarnacion). Upon the death of the testatrix in 1892, nothing was said or done by the devisees in regard to the windows in question. On July 14, 1911, Maria Encarnacion sold her lot and the warehouse thereon to the petitioner therein, Severo Amor (Amor). In January 1938, therein Amor destroyed the old warehouse and started to build instead a two-storey house.

In deciding the case, the Court first explained that easements may be acquired either through title or prescription and enumerated the different acts by which an easement may be acquired by virtue of title, namely: (1) a deed of recognition by the owner of the servient estate; (2) a final judgment; and (3) **an apparent sign between two estates, established by the owner of both, referring to Article 541 (now Article 624) of the Civil Code**. Citing

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[57] *Cortes v. Yu-Tibo*, supra note 45, at 29-31; emphasis supplied.

decisions of the Supreme Tribunal of Spain, the Court explained that "under article 541 [now Article 624] of the Civil Code, **the visible and permanent sign of an easement 'is the title that characterizes its existence'** (*'es el titulo caracteristico de su existencia.'*)"[58]

Applying Article 541 (now Article 624) of the Civil Code, the Court held that **the existence of the four windows constructed on the subject house was an apparent sign of an easement of light and view**, the subsistence of which after the lots were segregated to different owners created an easement of light and view by title without the need of any formal notice to the servient estate. The Court explained that **the moment of the constitution of the easement of light and view, together with that of *altius non tollendi*, was the time of the transfer of the other property adjacent to the lot where the windows were located**, which, in that case, was the death of the original owner of both properties:

> It will thus be seen that **under article 541 the existence of the apparent sign in the instant case, to wit, the four windows under consideration, had for all legal purposes the same character and effect as a title of acquisition of the easement of light and view by the respondents upon the death of the original owner**, Maria Florentino. Upon the establishment of that easement of light and view, the concomitant and concurrent easement of *altius non tollendi* was also constituted, the heir of the *camarin* and its lot, Maria Encarnacion Florentino, not having objected to the existence of the windows. The theory of article 541, of making the existence of the apparent sign equivalent to a title, when nothing to the contrary is said or done by the two owners, is sound and correct, because as it happens in this case, **there is an implied contract between them that the easements in question should be constituted**.
>
> Analyzing article 541 further, it seems that its wording is not quite felicitous when it says that the easement should continue. Sound juridical thinking rejects such an idea because, properly speaking, the easement is not created till the division of the property, inasmuch as a predial or real easement is one of the rights in another's property, or *jura in re aliena* and nobody can have an easement over his own property, *nemini sua res servit*. In the instant case, therefore, when the original owner, Maria Florentino, opened the windows which received light and air from another lot belonging to her, she was merely exercising her right of dominion. Consequently, the moment of the constitution of the easement of light and view, together with that of *altius non tollendi*, was the time of the death of the original owner of both properties. At that point, the requisite that there must be two proprietors — one of the dominant estate and another of the servient estate — was fulfilled.[59]

Subsequently, in 1960, the Court rendered its Decision in the case of *Gargantos v. Tan Yanon.*

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58 *Amor v. Florentino*, supra note 27, at 410; emphasis and italics supplied.

59 Id. at 410-411; emphasis and underscoring supplied; citations omitted.

In the said case, the late Francisco Sanz (Sanz) was the former owner of a parcel of land with the buildings and improvements thereon, situated in the *poblacion* of Romblon. He subdivided the lot into three (3) and then sold each portion to different persons. One portion was purchased by Guillermo Tengtio who subsequently sold it to Vicente Uy Veza. Another portion, with the house of strong materials thereon, was sold in 1927 to Tan Yanon, the respondent therein. This house had on its northeastern side, doors and windows overlooking the third portion, which, together with the *camarin* and small building thereon, after passing through several hands, was finally acquired by Juan Gargantos (Gargantos), the petitioner therein. In 1955, Gargantos tore down the roof of the *camarin* and constructed a combined residential house and warehouse on his lot.

The Court held that Article 538 (now Article 621) of the Civil Code and the doctrine in *Cortes v. Yu-Tibo* that the easement of light and view in situations involving openings situated on the wall of the dominant estate is a negative easement that may only be acquired by prescription tacked from formal prohibition "[is] not applicable herein because the two estates, that now owned by petitioner, and that owned by respondent, were formerly owned by just one person, Francisco Sanz."[60]

The Court further explained that the existence of the doors and windows on the northeastern side of the house was equivalent to a title, for the visible and permanent sign of an easement was the title that characterized its existence:

> x x x It was Sanz who introduced improvements on both properties. On that portion presently belonging to respondent, he constructed a house in such a way that the northeastern side thereof extends to the wall of the *camarin* on the portion now belonging to petitioner. On said northeastern side of the house, there are windows and doors which serve as passages for light and view. These windows and doors were in existence when respondent purchased the house and lot from Sanz. The deed of sale did not provide that the easement of light and view would not be established. **This then is precisely the case covered by Article 541, O.C.C. (now Article 624, N.C.C.) which provides that the existence of an apparent sign of easement between two estates, established by the proprietor of both, shall be considered, if one of them is alienated, as a title so that the easement will continue actively and passively, unless at the time the ownership of the two estates is divided, the contrary is stated in the deed of alienation of either of them, or the sign is made to disappear before the instrument is executed. The existence of the doors and windows on the northeastern side of the aforementioned house, is equivalent to a title, for the visible and permanent sign of an easement is the title that characterizes its existence** (Amor *vs.* Florentino, 74 Phil., 403). It should be noted, however, that while the law declares that the easement is to "continue" the easement actually arises for the first time only upon alienation of either estate, inasmuch as before that time there

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[60] *Gargantos v. Tan Yanon*, supra note 28, at 890; underscoring supplied.

> is no easement to speak of, there being but one owner of both estates (Article 530, O.C.C., now Article 613, N.C.C.).[61]

From *Amor v. Florentino* and *Gargantos v. Tan Yanon*, read together with *Cortes v. Yu-Tibo*, it has been jurisprudentially established that, in a situation wherein Article 624 of the Civil Code applies, there arises an easement if an apparent sign of the existence of an easement, *i.e.*, the existence of windows and openings on the dominant estate, **continues to remain even after the transfer of the property to the new owner, unless such apparent sign is removed or if there is an agreement to the contrary**.[62]

To reiterate, such is exactly the situation attendant in the instant case. Lot 1 and the subject property were once owned by one owner, *i.e.*, the Sps. Santos. On the subject property, a one-storey house with windows and other openings that accept light and view from Lot 1, which was idle at that time, was built. Subsequently, in 1998, the subject property was alienated in favor of the Sps. Garcia. It is undisputed that the windows and other openings on the one-storey house subsisted and remained open. It is also not disputed that there was no agreement made by the parties whatsoever to the effect that the windows and openings of the Sps. Garcia's house should be closed or removed.

Hence, in accordance with Article 624 of the Civil Code, from the time the Sps. Santos transferred the subject property to the Sps. Garcia, there arose by title an easement of light and view, placing a burden on the servient estate, *i.e.*, Lot 1, to allow the Sps. Garcia's residence unobstructed access to light and view, subject to certain limitations as will be discussed hereunder.

The core of the RTC and CA, Special 18th Division's Decisions dismissing the Sps. Garcia's Complaint centers on the argument that the cases of *Amor v. Florentino*, and *Gargantos v. Tan Yanon* are not applicable to the instant case because in the latter, "the previous owner only made improvements on the [subject property] of [the Sps. Garcia] at the time of the transfer of the alleged dominant estate to [the Sps. Garcia.] This takes the instant case out of the factual milieu of *Amor* and *Gargantos*."[63] According to the CA, Special 18th Division, "[t]he rulings in *Amor* and *Gargantos* appear to be premised on the fact that the previous owner made improvements on both properties prior to the transfer of one of these properties."[64]

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61 Id. at 890-891; emphasis and underscoring supplied.
62 Paras, supra note 37, at 669-670.
63 *Rollo*, p. 53.
64 Id. at 55.

After a close reading of *Amor v. Florentino* and *Gargantos v. Tan Yanon*, the Court holds that the RTC and CA, Special 18th Division were mistaken in not applying the aforesaid cases to the instant case.

First and foremost, the subject Civil Code provision dealt with by these two cases, *i.e.*, Article 624 (formerly Article 541) of the Civil Code, merely states that what is involved in this particular situation is "an apparent sign of easement **between two estates**."[65]

There is nothing in the aforesaid provision that requires the presence or establishment of structures or improvements on both estates at the time the ownership of the two estates is divided. The conclusion of the CA, Special 18th Division that Article 624 applies only when the (future) servient estate has an improvement thereon at the time of the transfer of the ownership of either or both of the estates finds no textual support. What the law merely states is that there must be two estates that were once owned by one owner, regardless of the existence of improvements in the (future) servient estate. What law requires is that, at the time the ownership of the estates is divided, there must be an apparent sign of easement that exists, such as a window, door, or other opening, in the dominant estate.

As exhaustively explained by recognized Civil Law Commentator, former CA Justice Eduardo P. Caguioa, the existence of an easement of light and view under Article 624 is established as long as (1) there exists an apparent sign of servitude between two estates; (2) the sign of the easement must be established by the owner of both tenements; (3) either or both of the estates are alienated by the owner; and (4) at the time of the alienation nothing is stated in the document of alienation contrary to the easement nor is the sign of the easement removed before the execution of the document:

> x x x In this case[,] the owner of two estates has established an apparent sign of the easement between two estates. It is apparent inasmuch as since it is the owner establishing it in his own property in favor of an estate belonging to himself there is no easement but merely an exercise of the right of ownership. Should, however, one or both of the estates be alienated or after partition in case of a property owned in common, then that sign established by the owner will constitute a title for the establishment of the easement, both actively or passively, except in case the contrary should be provided in the document of conveyance of either estate or in case before the alienation is made the sign is removed by the owner. Hence, in order that this article will apply[,] the following are the requisites: **(1) That there exist an apparent sign of servitude between two estates; (2) That the sign of the easement be established by the owner of both tenements because the article will not apply when the easement is established by a person different from the owner; (3) That either or both of the estates are alienated by the owner; and (4) That at the time of the alienation nothing is stated in the document of alienation contrary to the easement nor is**

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65 Emphasis and underscoring supplied.

> **the sign of the easement removed before the execution of the document.**[66]

It is evident that the prior existence of another structure or building in the other estate, in addition to the apparent sign of easement existing on the dominant estate, is not a requirement for the application of Article 624. What is clear from the foregoing is that the hallmark of an easement of light and view established by an apparent sign of easement under Article 624 is the existence of an apparent sign of servitude between two estates, such as a window, door, or any other opening, that was established by the common owner of both estates prior to the division of ownership of these estates.

Second, upon close reading of *Amor v. Florentino* and *Gargantos v. Tan Yanon*, there is no holding whatsoever by the Court that the application of Article 624 (formerly Article 541) is restricted to situations wherein the servient estate previously contained improvements or structures. The RTC and CA, Special 18th Division failed to explain the rationale for making a differentiation as to situations wherein the servient estate was idle at the time of the division of the ownership of the two estates. Instead, the RTC and CA, Special 18th Division merely nitpicked this singular factual difference and concluded, without sufficient explanation, that the factual milieu of the instant case differs from those of *Amor v. Florentino* and *Gargantos v. Tan Yanon*.

It must be stressed that the presence of a minor factual difference does not preclude the application of judicial precedent. It must be explained how the factual difference in a case makes the doctrine established in the decided case inapplicable therein. In the instant case, the cases of *Amor v. Florentino* and *Gargantos v. Tan Yanon* clearly and plainly explain that there arises an easement if an apparent sign of the existence of an easement, *i.e.*, the existence of windows and openings on the dominant estate, continues to remain even after the transfer of the property to the new owner, without making any holding whatsoever that there should have been a prior structure that was put up on the servient estate. The fact that the existence of windows, doors, and other openings on the dominant estate is the apparent sign of an existing easement is not hinged whatsoever on the presence of structures on the adjacent servient estate. In short, the fact in the aforesaid cases that the servient estates therein had existing structures prior to the division of ownership is not a significant fact that is determinative of the holdings of the Court.

In fact, the Court notes that in *Amor v. Florentino*, the improvement originally constructed on the servient estate, *i.e.*, the warehouse, was actually totally demolished and that, after the transfer of ownership of the dominant estate, a new two-storey house was thereafter built in its stead. This does not differ substantially from a situation wherein new

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66 Caguioa, supra note 35, at 276; emphasis supplied.

constructions are done in the servient estate that was previously completely empty.

Further, in *Gargantos v. Tan Yanon*, the Court, in applying Article 624 of the Civil Code, held that "[b]y reason of this easement, petitioner cannot construct on his land any building."[67] The Court did not say that the petitioner therein was barred only from adding or increasing the height of existing structures or improvements.

Hence, considering the foregoing discussion, the RTC and CA, Special 18th Division committed an error in holding that the Sps. Garcia failed to acquire an easement of light and view in the instant case. By virtue of Article 624 of the Civil Code and applicable jurisprudence, the Court holds that the Sps. Garcia have acquired an easement of light and view by title despite the lack of any formal notice or prohibition made upon the owner of the servient estate.

The Three-Meter Distance Rule

Now that the existence of an easement of light and view has been established in favor of the Sps. Garcia, the Court shall now delve on whether to grant Sps. Garcia's prayer that "respondents should therefore remove from Lot 1 their building or structure which blocks or impedes petitioners' air, light and view."[68]

The Court answers the question with a qualified yes.

Based on Articles 669[69] and 670 of the Civil Code, there are two kinds of windows: (1) regular or full[70] or direct view[71] windows, and (2) restricted,[72] or oblique or side view[73] windows. As for openings, they may be *direct views* — those openings which are made on a wall parallel or almost parallel to the line that divides the estates, in such a way that the neighboring tenement can be seen without putting out or turning the head,

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67 *Gargantos v. Tan Yanon*, supra note 28, at 891. It must be noted, however, that Article 673 of the Civil Code must be observed in the construction of improvements on the servient estate if by any title there are, in the dominant estate, openings with direct views, balconies or belvederes overlooking that adjoining servient estate.

68 *Rollo*, p. 33.

69 ART. 669. When the distances in Article 670 are not observed, the owner of a wall which is not a party wall, adjoining a tenement or piece of land belonging to another, can make in it openings to admit light at the height of the ceiling joints or immediately under the ceiling, and of the size of thirty centimeters square, and, in every case, with an iron grating imbedded in the wall and with a wire screen.

Nevertheless, the owner of the tenement or property adjoining the wall in which the openings are made can close them should he acquire part-ownership thereof, if there be no stipulation to the contrary.

He can also obstruct them by constructing a building on his land or by raising a wall thereon contiguous to that having such openings, unless an easement of light has been acquired. (581a)

70 Paras, supra note 37, at 720.

71 CIVIL CODE, Art. 670. Caguioa, supra note 35, at 314.

72 Paras, supra note 37, at 718.

73 CIVIL CODE, Art. 670. Caguioa, supra note 35, at 314.

or *oblique views* — those openings in a wall which form an angle to the boundary line, and therefore of necessity requires in order to see the neighboring tenement to thrust the head out of the opening and look to the right or left.[74] In the case at hand, the openings found on the property of the Sps. Garcia offer a direct view of the property of the respondents Sps. Santos.

In relation to direct view windows or openings, the Civil Code provides two distance rules or distances that must be observed before they can be made or established.

Firstly, there is the two-meter distance rule under Article 670 of the Civil Code, which provides: "[n]o windows, apertures, balconies, or other similar projections which afford a direct view upon or towards an adjoining land or tenement can be made, without leaving a distance of two meters between the wall in which they are made and such contiguous property." This Article is to be read in conjunction with Article 671 as the latter provides the mechanism by which the two-meter distance is to be measured, to wit: "[t]he distances x x x shall be measured in cases of direct views from the outer line of the wall when the openings do not project, from the outer line of the latter when they do, and in cases of oblique views from the dividing line between the two properties."

Hence, under Article 670, which is the general rule, when a window or any similar opening affords a direct view of an adjoining land, the distance between the wall in which such opening is made and the border of the adjoining land should be at least two meters.

Similarly, Republic Act No. 6541 as revised by Presidential Decree No. 1096 or the National Building Code of the Philippines provides the same two-meter distance requirement pursuant to Section 708(a), which provides that: "[t]he dwelling shall occupy not more than ninety percent of a corner lot and eighty percent of an inside lot, and subject to the provisions on Easement of Light and View of the Civil Code of the Philippines, shall be at least 2 meters from the property line."

Secondly, the three-meter distance rule is embodied in Article 673 of the Civil Code, which states that whenever by any title a right has been acquired to have direct views, balconies or belvederes overlooking an adjoining property, **the owner of the servient estate cannot build thereon at less than a distance of *three meters, not two meters*, from the property line, to be measured in the manner provided in Article 671**. Article 673 of the Civil Code reads:

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[74] Caguioa, supra note 35, at 314, citation omitted.

> ART. 673. Whenever by any title a right has been acquired to have direct views, balconies or belvederes overlooking an adjoining property, the owner of the servient estate cannot build thereon at less than a distance of three meters to be measured in the manner provided in Article 671. Any stipulation permitting distances less than those prescribed in Article 670 is void.

Article 673 is the exception to the general rule. In a situation wherein an easement is established or recognized by title or prescription, affording the dominant estate the right to have a direct view overlooking the adjoining property, *i.e.*, the servient estate, which is the exact situation in the instant case, the two-meter requirement under Article 670 is not applicable. Instead, Article 673 is the applicable rule as it contemplates the exact circumstance attendant in the instant case, *i.e.*, wherein an easement of view is created by virtue of law.

This provision has already been previously applied to easements of light and view acquired under Article 624. In *Gargantos v. Tan Yanon*, the Court held that since "[therein] respondent Tan Yanon's property has an easement of light and view against petitioner's property[, b]y reason of this easement [under Article 624], [therein Gargantos] **cannot construct on his land any building unless he erects it at a distance of not less than three meters from the boundary line separating the two estates**."[75]

To reiterate, as Article 673 states a special rule covering a situation wherein a dominant estate has acquired a right "to have direct views, balconies or belvederes, overlooking the adjoining property, the owner of the servient estate may not build on his own property except at a distance of at least three meters from the boundary line,"[76] the two-meter distance as provided in Article 670 is not enough. The distance between the structures erected on the servient estate and the boundary line of the adjoining estate must be *at least three meters*.

In the instant case, the records show that Roberto Planton Baradas (Baradas), the construction project engineer who supervised the construction of the Sps. Santos' house located on Lot 1, testified that "[t]here is a distance of ***two meters*** between [the Sps. Garcia's] fence and the wall of [the respondents] spouses Santos."[77] Simply stated, the distance between the structure erected by the Sps. Santos on Lot 1 and the boundary line is only two meters, which is less than the three-meter distance required under Article 673.

Therefore, considering that the Sps. Garcia have acquired by title an easement of light and view in accordance with Article 624 of the Civil Code, **the Sps. Santos should necessarily demolish or renovate portions**

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75 *Gargantos v. Tan Yanon*, supra note 28, at 891; emphasis and underscoring supplied.
76 Caguioa, supra note 35, at 317.
77 *Rollo*, p. 46; emphasis, underscoring and italics supplied.

of their residential building so that the three-meter distance rule as mandated under Article 673 of the Civil Code is observed.

WHEREFORE, the instant appeal is hereby **GRANTED**. The Decision dated June 30, 2016 and Resolution dated October 5, 2016 of the Court of Appeals in CA-G.R. CEB-CV No. 05701 are hereby **REVERSED AND SET ASIDE**. Necessarily, the Decision dated May 28, 2015 rendered by the Regional Trial Court of Iloilo City, Branch 31 is likewise **REVERSED AND SET ASIDE**.

The Court declares the **EXISTENCE OF AN EASEMENT OF LIGHT AND VIEW** in favor of the petitioners Sps. Tedy and Pilar Garcia. The respondents Sps. Loreta and Winston Santos are hereby ordered to **REMOVE** from Lot 1 such portions of their building or structure in order to comply with the three-meter rule as mandated under Article 673 of the Civil Code.

No pronouncement as to costs.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ESTELA M. PERLAS-BERNABE
Associate Justice

JOSE C. REYES, JR.
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

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

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LUCAS P. BERSAMIN
Chief Justice