



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 May 2021** which reads as follows:*

“G.R. No. 256001 (*Cristita Morales v. The Honorable Court of Appeals and The Heirs of Roberto P. Mabini, represented by Rosalina Mabini Vda. De Arevalo, and Mercedes M. Mabini*). —The remedy of *certiorari* will only lie when a tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.¹ There is grave abuse of discretion when the tribunal, board, or officer acts in a capricious or whimsical manner in the exercise of its judgment. The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty, or a virtual refusal to perform the duty enjoined or act in contemplation of law.² Necessarily, a petition for *certiorari* must be based on jurisdictional grounds and not to an error of judgment which may be reviewed or corrected only by appeal.³ In other words, the Court cannot correct errors of judgment in petitions for *certiorari*.

Here, the petitioner failed to show that the Court of Appeals (CA) acted in a capricious or whimsical manner or that it grossly and patently abused its discretion in upholding the Regional Trial Court’s (RTC) findings. To be sure, the CA’s decision is based on the applicable laws and established

¹ Rules of Civil Procedure, Rule 65, Section 1. *Petition for certiorari*. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

² *Microsoft Corp. v. Best Deal Computer Center Corp.*, 438 Phil. 408, 414 (2002).

³ *Jalandoni v. Secretary Drilon*, 385 Phil. 855, 871 (2000).

jurisprudence. At any rate, Spouses Roberto P. Mabini and Mercedes M. Mabini (Spouses Mabini) have a better right than the petitioner. The Spouses Mabini's ownership is based on their certificate of title unlike the petitioner who claimed ownership based on her alleged open, public, and adverse possession of the disputed property for more than 30 years. Moreover, the petitioner failed to prove that the disputed property is a military reservation. The petitioner did not present preponderant evidence that the property is part of the public domain that are no longer intended for public use, apart from a certified true copy of *Proclama Del Gobernador General De Las Islas Filipinas*,⁴ which has no English translation, and her allegation that the Air Transportation Office, a government agency, filed an anti-squatting case against her in 1994, and an ejectment case in 1996.⁵ In *Heirs of Mario Malabanan v. Republic*,⁶ the Court reiterated that Article 1113⁷ of the Civil Code which provides that the property of the State or any of its subdivisions not patrimonial in character shall not be the object of prescription. Lands of public domain, absent any declaration that they are no longer intended for public use, are unsusceptible to acquisition by prescription. More importantly, the disputed property was covered by OCT No. 251 when petitioner allegedly occupied it in April 1989. Records show that OCT No. 251 was issued on September 1, 1924.⁸ Pursuant to the indefeasibility of Torrens title, the petitioner's adverse, open, and notorious possession cannot defeat the ownership of Spouses Mabini's predecessors-in-interest.⁹ Thus, the time-honored principle that the person who has a Torrens title is entitled to possession of the land applies in favor of Spouses Mabini.¹⁰

However, the Court find it necessary to delete the award of attorney's fees and litigation expenses. In *PNCC v. APAC Marketing Corp.*,¹¹ the award of attorney's fees and expenses for litigation under Article 2208 of the Civil Code is an exception rather than the general rule. The basis for granting attorney's and litigation fees must be clearly and distinctly set forth in the decision.¹² The award of attorney's fees is improper if the only basis is that the plaintiff was forced to litigate to protect his or her interests. In this case, the CA's basis for upholding the award of attorney's fees and litigation expenses is the petitioner's refusal to vacate the disputed property which compelled Spouses Mabini to file a case to protect their interest.¹³ Hence, the award must be deleted absent any other compelling factual and legal bases.

⁴ *Rollo*, p. 45.

⁵ *Id.* at 8.

⁶ 605 Phil. 244 (2009).

⁷ ART. 1113. All things which are within the commerce of men are susceptible of prescription, unless otherwise provided. Property of the State or any of its subdivisions not patrimonial in character shall not be the object of prescription.

⁸ See *rollo*, p. 82.

⁹ See *Heirs of Alido v. Campano*, G.R. No. 226065, July 29, 2019.

¹⁰ See *Heirs of Cullado v. Gutierrez*, G.R. No. 212938, July 30, 2019.

¹¹ 710 Phil. 389 (2013).

¹² *Id.* at 396.

¹³ *Rollo*, p. 34.

FOR THESE REASONS, the petition is **DISMISSED**. The assailed Court Appeals' Decision¹⁴ dated July 26, 2019 and Resolution¹⁵ dated October 29, 2020 in CA-G.R. CV No. 104007 are hereby **AFFIRMED** with **MODIFICATIONS** in that the ₱30,000.00 attorney's fees and ₱20,000.00 litigation expenses are **DELETED** for lack of factual and legal bases.

Meanwhile, the Court resolves to **INFORM** petitioner that she or her authorized representative may personally claim from the Cash Disbursement and Collection Division of this Court the excess payment of the prescribed legal fees in the amount of ₱170.00 under O.R. No. 0291158 dated April 19, 2021.

SO ORDERED." (Lopez, J. Y., J., designated additional Member *per* Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court

Wtb
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¹⁴ *Id.* at 29-34-A; penned by Associate Justice Myra V. Garcia-Fernandez, with the concurrence of Associate Justices Ramon M. Bato, Jr. and Perpetua T. Atal-Paño.

¹⁵ *Id.* at 36.

Resolution

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G.R. No. 256001
May 5, 2021

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 5
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(Civil Case No. 11042)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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*with copy of CA Decision dated 26 July 2019
Please notify the Court of any change in your address.
GR256001. 05/05/2021(142)URES 