Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SPOUSES CRISPIN AQUINO and TERESA V. AQUINO, herein represented by their Attorney-in-Fact, AMADOR D. LEDESMA, Petitioners,	**G.R. No. 182754**
	Present:
- versus -	SERENO, *CJ*, Chairperson, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
SPOUSES EUSEBIO AGUILAR and JOSEFINA V. AGUILAR, Respondents.	Promulgated: **JUN 29 2015**

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DECISION

SERENO, *CJ:*

In this Petition for Review on Certiorari[1] filed under Rule 45 of the Rules of Court, Petitioner spouses Crispin and Teresa Aquino (petitioners) assail the Court of Appeals (CA) Decision dated 25 April 2008[2] in CA-GR SP No. 92778. The CA modified the Decisions of both the Metropolitan Trial Court (MeTC) and the Regional Trial Court (RTC). The CA ruled that although respondent spouses Eusebio and Josefina Aguilar (respondents) cannot be considered builders in good faith, they should still be reimbursed for the improvements they have introduced on petitioners' property.[3]

THE FACTS

Teresa Vela Aquino (Teresa) and her husband, Crispin Aquino, are the owners of a house and lot located at No. 6948, Rosal Street, Guadalupe

[1] *Rollo,* pp. 29-39.
[2] Id. at 41-52; penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Arcangelita Romillo-Lontok and Mariano C. Del Castillo (now a member of this Court).
[3] Id. at 51-52.

Since 1981, this property has been occupied by Teresa's sister, Josefina Vela Aguilar; Josefina's spouse Eusebio; and their family.[5] It appears from the record that respondents stayed on the property with the consent and approval of petitioners, who were then residing in the United States.[6]

While respondents were in possession of the property, the house previously constructed therein was demolished, and a three-storey building built in its place.[7] Respondents occupied half of the third floor of this new building for the next 20 years without payment of rental.[8]

On 22 September 2003, petitioners sent a letter to respondents informing them that an immediate family member needed to use the premises and demanding the surrender of the property within 10 days from notice.[9] Respondents failed to heed this demand, prompting petitioners to file a Complaint for ejectment against them before the office of the *barangay* captain of Guadalupe Viejo.[10] The parties attempted to reach an amicable settlement in accordance with Section 412 of the Local Government Code, but these efforts proved unsuccessful.[11]

On 19 November 2003, petitioner spouses Aquino filed a Complaint[12] with the MeTC of Makati City praying that respondents be ordered to (a) vacate the portion of the building they were then occupying; and (b) pay petitioner a reasonable amount for the use and enjoyment of the premises from the time the formal demand to vacate was made.[13]

In their Answer with Counterclaim,[14] respondents claimed that they had contributed to the improvement of the property and the construction of the building, both in terms of money and management/supervision services. Petitioners purportedly agreed to let them contribute to the costs of construction in exchange for the exclusive use of a portion of the building. Respondents averred:

> 2.3 That the construction of the three (3) storey building was also at the uncompensated supervision of defendant Eusebio Aguilar, of which only ₱ 2 Million was spent by plaintiffs while defendants spent around ₱ 1 Million as contribution to the construction cost. It was defendants who introduced improvements on subject lot because at the time plaintiffs bought the property it was marshy which was filled up by defendants (sic) truck load with builders, adobe and scumbro that elevated the ground;
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> 2.4 The original agreement was for my client to contribute his share so that they will have the portion of the subject building for their own

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[5] Id. at 42.
[6] Id. at 148-149.
[7] Id. at 261.
[8] Id. at 250.
[9] Id. at 78.
[10] Id. at 250
[11] Id. at 251.
[12] Id. at 77-82.
[13] Id. at 79-80.
[14] Id. at 95-102.

> exclusive use. It turned out later that the agreement they had was disowned by plaintiffs when they saw the totality of the building constructed thereon coupled by the fact, that the value of the lot has tremendously appreciated due to the commercialization of the vicinity which will command higher price and windfall profits should plaintiffs sell the property which they are now contemplating on (sic);
>
> 2.5 The portion which plaintiffs want defendants to vacate is a portion which the latter built with their own money upon your clients agreement and consent whom they built in good faith knowing and hoping that later on the same will be theirs exclusively. It was never an act of generosity, liberality and tolerance. Conversely, it was one of the implied co-ownership or partnership, because aside from the fact that defendants, who were then peacefully residing in Laguna, made unquantifiable contributions in terms of money and services arising from his uncompensated management and supervision over the entire subject property while plaintiffs are abroad. By legal implications he is an industrial partner responsible for the development and improvements of the subject property. His contribution was never without the consent of plaintiffs. Whatever contribution defendants introduced over the said property was made and built in good faith;[15]

Since they were allegedly co-owners of the building and builders in good faith, respondents claimed that they had the right to be compensated for the current value of their contribution.[16] Accordingly, they prayed for the dismissal of the Complaint and the award of P5 million as compensation for their contributions to the construction of the building, as well as moral damages, attorney's fees and costs of litigation.[17]

THE RULING OF THE METC

In a Decision[18] dated 12 November 2004, the MeTC ruled in favor of petitioners, stating that they had the right to enjoy possession of the property as the registered owners thereof.[19] Since the case was merely one for ejectment, the court held that it was no longer proper to resolve respondents' claim of co-ownership over the building.[20]

The MeTC also declared that respondents were builders in bad faith who were not entitled to recover their purported expenses for the construction of the building.[21] It emphasized that their occupation of the property was by mere tolerance of petitioners and, as such, could be terminated at any time.[22] The court further noted that in a letter dated 15 July 1983, petitioners had already asked respondents to refrain from constructing improvements on the property because it was intended to be sold.[23]

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[15] Id. at 96-97.
[16] Id. at 99.
[17] Id. at 100.
[18] Id. at 250-253; penned by Judge Perpetua Atal-Paño
[19] Id. at 251.
[20] Id.
[21] Id. at 252.
[22] Id.
[23] Id. at 252-253.

The dispositive portion of the MeTC Decision, which ordered respondents to vacate the property, reads:

> WHEREFORE, premises considered, judgment is hereby rendered ordering defendants Eusebio & Josefina Aguilar and all persons claiming rights under them to immediately vacate the subject property, and deliver peaceful possession thereof to the plaintiffs. Defendants are likewise ordered to pay plaintiffs ₱7,000.00 monthly rental commencing 22 October 2003 until such time that defendant finally vacate the premises, ₱10,000.00 as and by way of attorney's fees, and the cost of suit.[24]

On 14 September 2005, respondents appealed the MeTC's Decision to the RTC.[25]

THE RULING OF THE RTC

In their Memorandum on Appeal[26] before the RTC, respondents assailed the MeTC's finding that petitioners, as the registered owners of the land, were also the owners of the improvement constructed thereon.[27] Respondents asserted that they were co-owners of the building since they built a portion thereof using their own funds, as evidenced by various receipts they presented before the MeTC.[28]

Respondents also maintained that they were builders in good faith. They pointed out that petitioners never objected to the construction of the improvement on their property.[29] According to respondents, petitioners' letter dated 15 July 1983 was written at a time when an old dilapidated house was still standing on the property.[30] Subsequently however, the house was demolished and the new building was constructed thereon by respondents, with petitioners' knowledge and consent.[31]

In a Decision[32] dated 3 January 2006, the RTC denied the appeal and affirmed the MeTC's Decision. According to the court, respondents did not become co-owners of the property although they may have contributed to the construction of the building thereon. [33] Hence, their stay in the premises remained to be by mere tolerance of the petitioners.[34]

The RTC also ruled that respondents cannot be considered builders in good faith.[35] The court found that as early as 1983, petitioners had informed respondents of the intention to eventually dispose of the property.[36] The RTC

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[24] Id. at 253.
[25] Id. at 34.
[26] Id. at 103-116.
[27] Id. at 110-112.
[28] Id. at 106.
[29] Id. at 112-115.
[30] Id. at 112.
[31] Id.
[32] Id. at 127-131; penned by Judge Cesar D. Santamaria.
[33] Id. at 129.
[34] Id. at 130.
[35] Id.
[36] Id.

concluded that petitioners never consented to the construction of any form of structure on the property.[37] Since respondents participated in the construction of the building even after they had been notified that their occupation may be terminated anytime, the RTC ruled that they did not build the structures in good faith.[38] The RTC likewise noted that "the improvements in question as well as other personal belongings of the appellants were removed from the premises through a writ of demolition, and these properties are now in their possession."[39]

THE RULING OF THE CA

Aggrieved by the RTC Decision, respondents elevated the matter to the CA. They reiterated that they owned one-half of the third floor of the building on the property, having spent their own funds for the construction thereof. Respondents also asserted that because they built that portion in good faith, with no objection from petitioners, they were entitled to reimbursement of all necessary and useful expenses incurred in the construction.

On 25 April 2008, the CA affirmed the conclusion of the lower courts that respondents could not be considered co-owners of the property or builders in good faith.[40] According to the appellate court, respondents were aware that their right to possess the property had a limitation, because they were not the owners thereof. They knew that their occupation of the building was by mere tolerance or permission of petitioners, who were the registered owners of the property.

The CA likewise noted that respondents failed to prove the alleged agreement between the parties with respect to the ownership of one-half of the third floor of the improvement. There being no contract between them, respondents are necessarily bound to vacate the property upon demand.[41] The CA ruled:

> The Supreme Court has consistently held that those who occupy the land of another at the latter's tolerance or permission, without any contract between them, are necessarily bound by an implied promise that the occupants will vacate the property upon demand. Based on the principles enunciated in *Calubayan v. Pascual,* the status of petitioners is analogous to that of a lessee or a tenant whose term of lease has expired but whose occupancy continued by tolerance of the owner. In such a case, the unlawful deprivation or withholding of possession is to be reckoned from the date of the demand to vacate.[42] (Citations omitted)

Nevertheless, the CA declared that respondents should be reimbursed for the necessary and useful expenses they had introduced on petitioners'

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[37] Id.
[38] Id.
[39] Id. at 131.
[40] Id. at 48.
[41] Id. at 49
[42] Id.

property, pursuant to Articles 1678 and 548 of the Civil Code.[43] The dispositive portion of the CA Decision dated 25 April 2008[44] reads:

> **WHEREFORE**, the assailed Decision is **AFFIRMED** with the following **MODIFICATIONS**:
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> 1. The case is **REMANDED** to the court of origin for further proceedings to determine the facts essential to the application of *Article 1678* and *Article 546* of the Civil Code, specifically on the following matters:
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> a) To determine the cost of necessary expenses incurred by petitioners during their period of possession.
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> b) To determine the cost of useful improvements introduced by petitioners in the construction of the building.
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> 2. After said amounts shall have been determined by competent evidence:
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> a) Respondents Aquino are ordered to pay petitioners the costs of necessary improvements incurred during the period of their occupation.
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> b) Petitioners Aguilar are to be reimbursed one half (½) of the amount they expended on the construction of the building should respondents decided to appropriate the same. Should respondents refuse to reimburse the costs of the improvements, petitioners may remove the improvements even though the principal thing may suffer damage thereby.
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> c) In both instances, petitioners shall have no right of retention over the subject premises.
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> d) In any event, petitioners shall pay respondents the amount of Php 7,000.00 as monthly rental commencing 22 October 2003 until such time that petitioners finally vacate the premises. No pronouncement as to costs.
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> **SO ORDERED.**[45]

Respondents no longer appealed the Decision of the CA. This time, petitioners elevated the matter to this Court through the instant Petition for Review[46] under Rule 45 of the Rules of Court.

PROCEEDINGS BEFORE THIS COURT

In their Petition, petitioners allege that the CA seriously erred in remanding the case to the court of origin for the purpose of ascertaining the

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[43] Id. at 50.
[44] Id. at 9-20; CA-G.R. SP No. 92778 penned by Associate Justice Ricardo R. Rosario and concurred in by Associate Justices Arcangelita Romillo-Lontok and Mariano C. del Castillo (now a member of this court).
[45] Id. at 51-52.
[46] Id. at 29-39.

right of respondents to be reimbursed for the improvements introduced on the property.[47] They emphasize that respondents were builders in bad faith, and, as such, are not entitled to reimbursement under Articles 449, 450 and 451 of the Civil Code.

In their Comment,[48] respondents assert that the CA correctly ruled that their status is akin to that of a lessee or tenant whose term of lease has expired, but whose occupancy continues by virtue of the tolerance of the owner. They aver that the CA properly upheld their entitlement to reimbursement pursuant to Articles 1678[49] and 546[50] of the Civil Code.[51]

In their Reply,[52] petitioners argue against supposed improvements constructed by respondents from 1999 to 2003 amounting to ₱995,995.94. Petitioners say this claim is highly ridiculous and unbelievable.[53]

OUR RULING

Since respondents no longer appealed the Decision of the CA,[54] they are considered bound by its findings and conclusions. These include its affirmation of the earlier findings of the MeTC and the RTC that respondents cannot be considered builders in good faith:

> Both the MeTC and the RTC have rejected the idea that petitioners are builders in good faith. We agree. The resolution of the issues at bar calls for the application of the rules on accession under the Civil Code. The term "builder in good faith" as used in reference to Article 448 of the Civil Code, refers to one who, not being the owner of the land, builds on that land believing himself to be its owner and unaware of the land, builds on that land, believing himself to be its owner and unaware of the defect in

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[47] Id. at 34.
[48] Id. at 211-214.
[49] Article 1678 of the Civil Code states:

> Art. 1678. If the lessee makes, in good faith, useful improvements which are suitable to the use for which the lease is intended, without altering the form or substance of the property leased, the lessor upon the termination of the lease shall pay the lessee one-half of the value of the improvements at the time. Should the lessor refuse to reimburse said amount, the lessee may remove the improvements, even though the principal thing may suffer damage thereby. He shall not, however, cause any more impairment upon the property leased than is necessary.
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> With regard to ornamental expenses, the lessee shall not be entitled to any reimbursement, but he may remove the ornamental objects, provided no damage is caused to the principal thing, and the lessor does not choose to retain them by paying their value at the time the lease is extinguished.

[50] Article 546 of the Civil Code provides:

> Art. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.
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> Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

[51] Id. at 212.
[52] Id. at 220-223.
[53] Id. at 220.
[54] Id. at 41-52.

> his title or mode of acquisition. The essence of good faith lies in an honest belief in the validity of one's right, ignorance of a superior claim, and absence of intention to overreach another.
>
> In the instant case, the Spouses Aguilar cannot be considered as builders in good faith on account of their admission that the subject lot belonged to the Spouses Aquino when they constructed the building. At the onset, petitioners were aware of a flaw in their title and a limit to their right to possess the property. By law, one is considered in good faith if he is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.[55]

Respondents are deemed to have acquiesced to the foregoing findings when they failed to appeal the CA Decision. A party who does not appeal from a judgment can no longer seek the modification or reversal thereof.[56] Accordingly, the only issue left for this Court to determine is that which is now raised by petitioners – whether the CA erred in remanding this case to the court of origin for the determination of the necessary and useful expenses to be reimbursed to respondents pursuant to Articles 1678 and 546 of the Civil Code.

We resolve to **PARTLY GRANT** the Petition and modify the ruling of the CA.

Article 1678 is not applicable to this case.

In its Decision, the CA found that respondents were occupants of the property by mere tolerance or generosity of petitioners and were bound by an implied promise to vacate the premises upon demand.[57]

Based on this finding, the CA held that "the status of petitioners is analogous to that of a lessee or a tenant whose term of lease has expired but whose occupancy continued by tolerance of owner"[58] pursuant to this Court's ruling in *Calubayan v. Pascual*.[59] As a result, the CA concluded that Articles 1678 and 546 of the Civil Code must be applied to allow respondents to be reimbursed for their necessary and useful expenses.

We disagree. By its express provision, Article 1678 of the Civil Code applies only to *lessees* who build useful improvements on the leased property. It does *not* apply to those who possess property by mere tolerance of the owners, without a contractual right.

A careful reading of the statement made by this Court in *Calubayan* would show that it did not, as it could not, modify the express provision in Article 1678, but only noted an "analogous" situation. According to the Court, the analogy between a tenant whose term of lease has expired and a

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[55] Id. at 48.
[56] *Taganito Mining Corporation v. Commissioner of Internal Revenue*, G.R. No. 197591, 18 June 2014; *Raquel-Santos, et al. v. Court of Appeals and Finvest Securities Co., Inc.*, 601 Phil. 631, 651 (2009).
[57] *Rollo*, p. 17.
[58] Id. at 49.
[59] 128 Phil. 160-165 (1967).

person who occupies the land of another at the latter's tolerance *lies in their implied obligation to vacate the premises upon demand of the owner.* The Court stated:

> To begin with, it would appear that although the defendant is regarded by the plaintiffs as a "squatter" his occupancy of the questioned premises had been permitted or tolerated even before the Philippine Realty Corporation sold the lots to the plaintiffs. Otherwise, the latter would not have found him on the premises. It may be true that upon their acquisition of the parcels of land in 1957, plaintiffs notified and requested defendant to see them, but despite defendant's failure to heed these requests, plaintiffs did not choose to bring an action in court but suffered the defendant instead to remain in the premises for almost six years. Only on February 2, 1963, did the plaintiffs for the first time notify the defendant that "they now need the two parcels of land in question" and requested him to vacate the same. In allowing several years to pass without requiring the occupant to vacate the premises nor filing an action to eject him, plaintiffs have acquiesced to defendant's possession and use of the premises. It has been held that a person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against them. The status of defendant is analogous to that of a lessee or tenant whose term of lease has expired but whose occupancy continued by tolerance of the owner. In such a case, the unlawful deprivation or withholding of possession is to be counted from the date of the demand to vacate.[60] (Emphasis in the original)

It is clear from the above that *Calubayan* is not sufficient basis to confer the status and rights of a lessee on those who occupy property by mere tolerance of the owner.

In this case, there is absolutely no evidence of any lease contract between the parties. In fact, respondents themselves never alleged that they were lessees of the lot or the building in question. Quite the opposite, they insisted that they were co-owners of the building and builders in good faith under Article 448 of the Civil Code. For that reason, respondents argue that it was erroneous for the CA to consider them as lessees and to determine their rights in accordance with Article 1678.

As builders in bad faith, respondents are not entitled to reimbursement of useful expenses.

Furthermore, even if we were to subscribe to the CA's theory that the situation of respondents is "analogous to that of a lessee or tenant whose term of lease has expired but whose occupancy continued by tolerance," the absence of good faith on their part prevents them from invoking the provisions of Article 1678.

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[60] Id.

As discussed above, the MeTC, the RTC and the CA all rejected the claims of respondents that they were builders in good faith. This pronouncement is considered conclusive upon this Court, in view of respondents' failure to appeal from the CA decision. This rule bars the application of Article 1678 as well as Articles 448 and 576 of the Civil Code and all other provisions requiring good faith on the part of the builder.

We are aware that in some instances, this Court has allowed the application of Article 448 to a builder who has constructed improvements on the land of another with the consent of the owner.[61] In those cases, the Court found that the owners knew and approved of the construction of improvements on the property. Hence, we ruled therein that the structures were built in good faith, even though the builders knew that they were constructing the improvement on land owned by another.

Although the factual circumstances in the instant case are somewhat similar, there is one crucial factor that warrants a departure from the above-described rulings: the presence of evidence that petitioners *prohibited* respondents from building their own structure on a portion of the property.

Based on the findings of fact of the MeTC and the RTC, petitioners had already warned respondents not to build a structure on the property as early as 1983. The MeTC explained:

> Likewise, in a letter dated 15 July 1983 sent by plaintiffs to the defendants marked as Exhibit "2" of defendants' Position Paper, Teresa Aquino made known to the defendants not to construct on the premises as she planned to sell the same when the value of the property shall increase (sic). Defendants are undoubtedly builders in bad faith for despite the prohibition made upon them, they continued their construction activities upon respondents' property.[62]

This ruling was affirmed by the RTC in its Decision dated 3 January 2006, which reads:

> An examination of appellants' Exhibit "2" which is a letter dated July 15, 1983, sent to appellant Josefina Aguilar, the sister of appellee Teresa Aquino, abundantly shows that their occupancy of the premises in question is by tolerance of the appellees. Thus, the letter expressly states that the appellants are advised not to put up a shop, as the appellees had plan (sic) then of disposing the property (the land) in question for a reasonable profit after a period of three or four years, thereby placing on notice them (appellants) that their possession of the said property is temporary in nature and by mere generosity of the appellees, they being sisters.
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> The letter likewise advised them to apply for a housing project so that by the time the property in question is sold, they have a place to

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[61] *Spouses Ismael and Teresita Macasaet v. Spouses Vicente and Rosario Macasaet*, 482 Phil 853-876, (2004); *Boyer-Roxas v. Court of Appeals*, G.R. No. 100866, 14 July 1992, 211 SCRA 470; *De Guzman v. De la Fuente*, 55 Phil. 501-504 (1930); *Aringo v. Arena*, 14 Phil. 263-270 (1909); *Javier v. Javier*, 7 Phil. 261-268 (1907).

[62] *Rollo*, p. 252.

> transfer to. All these undisputed antecedents which can be considered as judicially admitted by the appellants being their own evidence marked as Exhibit "2", coupled with the fact that since the time they occupied the premises in 1983 up to the time when the complaint was filed, they were not asked to pay any monthly rental for the use, enjoyment and occupancy of the said property, ineluctably established the fact that their possession of the said property is by mere tolerance of the appellees.[63]
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> x x x x
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> Their contention that pursuant to Article 453 of the Civil Code, they should be considered builders in good faith even if they have acted in bad faith, since their act of introducing improvements to one-half of the third floor of the three storey building was with knowledge and without opposition on the part of the appellants, cannot be sustained, principally on the ground that as stated earlier, their Exhibit "2" is very limpid on the act that they were already forewarned as early as 1983 not to introduce any improvements thereon as the property is slated to be sold as it was only bought for investment purposes. The fact that the appellees did not thereafter remind them of this, is of no moment, as this letter was not likewise withdrawn by a subsequent one or modified by the appellees.[64]

We find no reason to depart from the conclusions of the trial courts. Respondents were evidently prohibited by petitioners from building improvements on the land because the latter had every intention of selling it. That this sale did not materialize is irrelevant. What is crucial is that petitioners left respondents clear instructions not to build on the land.

We also agree with the RTC's ruling that the lack of constant reminders from petitioners about the "prohibition" expressed in the 1983 letter was immaterial. The prohibition is considered extant and continuing since there is no evidence that this letter was ever withdrawn or modified. Moreover, no evidence was presented to show that petitioners were aware of what was happening: that respondents were constructing a portion of the building with their own funds and for their exclusive use and ownership. Neither were respondents able to present evidence that petitioners had agreed to share the expenses with them, or that the former had given consent to the latter's contribution, if any.

In view of the foregoing, this Court's previous rulings on Article 448 cannot be applied to this case. Hence, we hold that petitioners, as the owners of the land, have the right to appropriate what has been built on the property, without any obligation to pay indemnity therefor;[65] and that respondents have no right to a refund of any improvement built therein,[66] pursuant to Articles 449 and 450 of the Civil Code:

> Art. 449. He who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right of indemnity.

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[63] Id. at 130.
[64] Id.
[65] *Heirs of Durano, Sr. v. Spouses Uy,* 398 Phil. 125-127 (2000).
[66] *Tan Queto v. Court of Appeals*, 232 Phil. 57-64 (1983).

> Art. 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land, and the sower the proper rent.
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> Art. 451. In the cases of the two preceding articles, the landowner is entitled to damages from the builder, planter or sower.

Respondents may recover the necessary expenses incurred for the preservation of the property but without the right of retention.

Pursuant to Article 452 of the Civil Code, a builder in bad faith is entitled to recoup the necessary expenses incurred for the preservation of the land.[67] The CA correctly ruled that respondents in this case are similarly entitled to this reimbursement. However, being builders in bad faith, they do not have the right of retention over the premises.[68]

While the evidence before this Court does not establish the amount of necessary expenses incurred by respondents during their stay in the property, we note that even petitioners do not deny that such expenses were incurred. In fact, in a letter dated 15 July 1983, petitioners acknowledged that respondents had spent personal money for the maintenance of the property. Petitioners even promised to reimburse them for those expenses.[69] In this light, we find it proper to order the remand of this case to the court *a quo* for the purpose of determining the amount of necessary expenses to be reimbursed to respondents.

With respect to the award of actual damages to petitioners, we find no reason to reverse or modify the ruling of the CA. This Court has consistently held that those who occupy the land of another at the latter's tolerance or permission, even without any contract between them, are necessarily bound by an implied promise that the occupants would vacate the property upon demand.[70] Failure to comply with this demand renders the possession

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[67] Article 452 of the Civil Code states:

> Art. 452. The builder, planter or sower in bad faith is entitled to reimbursement for the necessary expenses of preservation of the land.

[68] Article 546 of the Civil Code states:

> ART. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.
> Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

[69] *Rollo*, pp. 148-149.

[70] *Spouses Cruz v. Spouses Fernando*, 513 Phil 280-293 (2005); *Rivera v. Rivera*, 453 Phil 404-41 (2003); *Spouses Pengson v. Ocampo, Jr.* 412 Phil 860-868 (2001); *Arcal v. Court of Appeals*, 348 Phil 813-830 (1998); *Spouses Refugia v. Court of Appeals*, 327 Phil 982-1011 (1996).

unlawful and actual damages may be awarded to the owner from the date of the demand to vacate[71] until the actual surrender of the property.

Accordingly, we affirm the CA's award of actual damages to petitioners in the amount of ₱7,000 per month from the date of demand (22 October 2003) until the subject properties are vacated. This amount represents a reasonable compensation for the use and occupation of respondents' property[72] as determined by the RTC and the MeTC.

As to petitioners' prayer for attorney's fees, we find no cogent basis for the award.

WHEREFORE, the Petition is **PARTLY GRANTED**.

The Court of Appeals Decision dated 25 April 2008 is **REVERSED** insofar as it ordered: (a) the reimbursement of the useful expenses incurred by respondents while in possession of the property; and (b) the determination of the cost of these useful improvements by the court of origin. The rest of the Decision of the Court of Appeals is hereby **AFFIRMED**.

Accordingly, this case is **REMANDED** to the court of origin for the determination of the necessary expenses of preservation of the land, if any, incurred by respondent spouses Eusebio and Josefina Aguilar while they were in possession of the property, which expenses shall be reimbursed to them by petitioner spouses Crispin and Teresa Aquino.

On the other hand, respondents and all persons claiming rights under them are ordered, upon finality of this Decision without awaiting the resolution of the matter of necessary expenses by the trial court, to immediately **VACATE** the subject property and **DELIVER** its peaceful possession to petitioners. Respondents are likewise ordered to **PAY** petitioners ₱7,000 as monthly rental plus interest thereon at the rate of 6% per annum, to be computed from 22 October 2003 until the finality of this Decision.

No pronouncement as to costs.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

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[71] *Lopez v. David*, GR No. 152145, 30 March 2004, 426 SCRA 535; *Arcal v. Court of Appeals*, 348 Phil. 813, 823 (1998); *Villaluz v. Court of Appeals*, 344 Phil. 77, 89 (1997).
[72] See *Reyes v. Court of Appeals*, 148 Phil. 135 (1971)

WE CONCUR:

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

MARIA LOURDES P. A. SERENO
Chief Justice