

## SECOND DIVISION

[ G.R. No. 142056, April 19, 2001 ]

**EVELYN ONG, ELIZABETH QUIAMCO, JOSEPHINE REJOLLO AND ELEONOR ORTEGA, PETITIONERS, VS. COURT OF APPEALS AND SPOUSES RICHARD AND NILDA CABUCOS, RESPONDENTS.**

### DECISION

**BELLOSILLO, J.:**

PEDRO and JOSEFA QUIAMCO, spouses, owned a residential lot and a house standing thereon situated in Barrio Carreta, Cebu City, covered by TCT No. RT-3781. They had six (6) children, namely, Trinidad, Avelina, Amelia, Camilo, Pedro and Darius, all surnamed Quiamco. Pedro died in 1973 and Josefa in 1981.

On 18 January 1985 the Quiamco children above-named executed an *Extra-Judicial Declaration of Heirs with a Deed of Donation* stating that they were the only surviving heirs of their deceased parents and that they were transferring by way of donation the house and lot embraced in TCT No. RT-3781 to their sister Trinidad Quiamco who duly accepted it. Consequently, TCT No. 93046 was issued in the name of Trinidad Quiamco. Thereafter, their brother Darius Quiamco died. Nevertheless, Trinidad allowed his surviving wife Elizabeth Quiamco and their children Evelyn Ong, Josephine Rejollo and Eleonor Ortega, petitioners herein, to occupy the house and lot.

On 19 August 1994 respondent-spouses Richard and Nilda Cabucos purchased the house and lot from Trinidad. Subsequently, TCT No. 130676 was issued in their names. In 1995 they demanded that petitioners vacate the premises within ten (10) days from notice. Petitioners refused. The matter had to be referred to the barangay for amicable settlement but the parties failed to arrive at an agreement. Consequently, respondents filed four (4) complaints against petitioners for illegal detainer before the Municipal Trial Court of Cebu City. Respondents alleged that they had already purchased subject property from Trinidad and that petitioners' possession of the property was by their mere tolerance.

Petitioners contended that in 1972 the spouses Pedro and Josefa Quiamco had verbally donated the subject property to them on condition that they would take care of the old couple. Since then petitioners had been in uninterrupted, open, continuous and peaceful possession of the property and religiously paying the realty taxes therefor.

The trial court opined that petitioners' claim of donation could not stand against the ownership of respondents as evidenced by a certificate of title. On 14 May 1996 it rendered judgment ordering petitioners and any of their representatives to peacefully vacate the house and lot; to pay respondents jointly and severally P500.00 a month as rental beginning 15 May 1995 until possession could be