

REPUBLIC OF THE PHILIPPINES
Municipal Trial Court in Cities
7th Judicial Region
Mandaue City
Branch 1

Spouses ANASTACIO BARBARONA
and PERLA BARBARONA,

Plaintiffs, Civil Case No.: SCA 0820

-versus-

For: **“Unlawful Detainer”**

EVERSLEY CHILDS SANITARIUM,
JAGOBIA NATIONAL HIGH SCHOOL,
BUREAU OF FOODS and DRUGS, and
SOME RESIDENTS,
Defendants.

X-----X

ANSWER WITH COUNTERCLAIMS

DEFENDANT EVERSLEY CHILDS SANITARIUM
represented by **GERARDO M. AQUINO, JR,** through the undersigned counsel in the above-entitled case, unto this Honorable Court, most respectfully alleges that:

1. The defendant admits paragraphs 1, 2, 3 and 4 of the Complaint;
2. The defendant specifically denies the allegations stated in paragraph 5 of the Complaint for lack of knowledge or information sufficient to form a belief as to the truth and correctness of the same;
3. The defendant admits the allegations of paragraph 6 of the complaint but only insofar as to the existence of the Transfer Certificate of Title;
4. The defendant specifically denies the allegations stated in paragraphs 7, 8, 9, 10, 11, 12 and 13 of the complaint the truth being are those alleged in the affirmative defenses;

- 5.** The defendant specifically denies the allegations in paragraphs 14 and 15 of the complaint for lack of knowledge and information sufficient to form a belief as to the veracity or falsity of the alleged amounts of attorney's fees and court appearances as agreed upon between the plaintiffs and their lawyer as well as the amount incurred by the plaintiffs in filing this suit;

AFFIRMATIVE DEFENSES

Defendant by way of affirmative defenses alleges that:

- 6.** The defendant has been in possession of the property for more than 70 years; hence the case should be one for recovery of possession, which is beyond the jurisdiction of this Honorable Court;
- 7.** The plaintiffs herein are guilty of laches since they took more than 70 years for them to seek the issuance of a Torrens title over the property;
- 8.** The defendant has been occupying the property since May 30, 1930 as the buildings utilized as hospital facilities were opened on the same date;
- 9.** The actions of the defendant in constructing buildings used as a hospital constitutes as an act of ownership and control as the lawful owner and possessor of the property;
- 10.** The defendant acquired title to the property by virtue of the issuance of Proclamation No. 507 issued on October 21, 1932;
- 11.** The Transfer Certificate of Title No. 53698 of the plaintiffs is void considering that defendant herein actual owner and possessor of the said property and was notified of its issuance;
- 12.** The complaint fails to state as to the period when defendant's possession was initially lawful, and how and when the possession of the subject property becomes unlawful; thus, it falls short in sufficiently alleging a cause of action for unlawful detainer;

13. The circumstances stated above shows that the defendant is the lawful owner and possessor of the property;

PRAYER

WHEREFORE, it is respectfully prayed of this Honorable Court that, after due hearing, judgment be rendered to wit:

1. Order the dismissal of the present action for lack of jurisdiction since the complaint does not sufficiently allege a cause of action for unlawful detainer;
2. Praying that other reliefs and remedies deemed just and equitable and appropriate under the premises be granted.

Done this Mandaue City, May 15, 2005.

Counsel for the Defendant by:

ATTY. JUAN DELA CRUZ

Attorney's Roll No. 123456 – 4/08/03
PTR No. 123456-1/8/04-Manduae City
IBP No. 125456-1/8/04-Cebu Chapter
MCLE Compliance No. 45454568
Pilar, Mandaue City, Cebu

VERIFICATION AND CERTIFICATION AGAINST NON-FORUM SHOPPING

Republic of the Philippines)
CITY OF MANDAUE) S.S.

I, **GERARDO M. AQUINO, JR.**, of legal age, married, Filipino, and a resident of Mandaue City, Cebu after having been duly sworn to an oath in accordance with law, hereby depose and say:

- 1.) That I am the defendant in the above-entitled case;
- 2.) That I have caused the preparation of this Answer;

3.) That I have read the pleading and all the allegations contained therein and have known them to be true and correct to the best of my own personal knowledge or based on authentic records;

4.) That I have not filed any similar or identical actions involving the same parties and with the same issues with the Supreme Court, the Court of Appeals, or any other tribunal or quasi-judicial agency, and to the best of my knowledge, no such other action or claim is pending therein;

5.) That if I should thereafter learn that the same or similar action or claim has been filed or is pending before said courts, I hereby undertake to report such fact within five (5) days therefrom.

IN WITNESS WHEREOF, I hereunto affix my signature this 15th day of May 2005, in the City of Mandaue, Philippines.

GERARDO M. AQUINO, JR

Affiant

PRC ID No. 95888
Valid until 7/8/2008

SUBSCRIBED AND SWORN TO BEFORE ME, a notary public in and for the City of Mandaue, this 15th day of March 2005, affiant, **GERARDO M. AQUINO, JR**, personally came and appeared with his valid Identification indicated above, bearing photograph and signature, known to me as the same person who personally signed the foregoing instrument before me and avowed under penalty of law to the whole truth of the contents of said instrument.

WITNESS MY HAND AND SEAL this 15th day of May 20005 in the City of Mandaue.

ATTY. JUAN DELA CRUZ

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