

**SIMEON B. MIGUEL, ET AL., PLAINTIFFS-APPELLANTS, VS.
FLORENDO CATALINO DEFENDANT-APPELLEE.**

G.R. No. L-23072. November 29, 1968

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Direct appeal from the judgment in Civil Case No. 1090 of the Court of First Instance of Baguio, dismissing the plaintiffs' complaint for recovery of possession of a parcel of land, registered under Act 496, in the name of one Bacaquio,[1] a long-deceased illiterate non-Christian resident of Mountain Province, and declaring the defendant to be the true owner thereof.

On January 22, 1962, appellants Simeon, Emilia and Marcelina Miguel, and appellant Grace Ventura brought suit in the Court below against Florendo Catalino for the recovery of the land above-described, plaintiffs claiming to be the children and heirs of the original registered owner, and averred that defendant, without their, knowledge or consent, had unlawfully taken possession of the land, gathered its produce and unlawfully excluded plaintiffs therefrom. Defendant answered pleading ownership and adverse possession for 30 years, and counterclaimed for attorneys' fees. After trial the Court dismissed the complaint, declared defendant to be the rightful owner, and ordered the Register of Deeds to issue a transfer certificate in lieu of the original. Plaintiffs appealed directly to this Court, assailing the trial Court's findings of fact and law.

As found by the trial Court, the land in dispute is situated in the Barrio of San Pascual, Municipality of Tuba, Benguet, Mountain Province and contains an area of 39,446 square meters, more or less. It is covered by Original Certificate of Title No. 31, which was issued on 28 December 1927 in the name of Bacaquio (or Bakakew), a widower. No encumbrance or sale has ever been annotated in the certificate of title.

The plaintiff-appellant Grace Ventura[2] is the only child of Bacaquio by his first wife, Debsay, and the other plaintiffs-appellants, Simeon, Emilia and Marcelina, all surnamed "Miguel", are his children by his third wife, Cosamang. He begot no issue with his second wife, Dobaney. The three successive wives have all died.

Bacaquio, who died in 1943, acquired the land when his second wife died and sold it to Catalino Agyapao, father of the defendant Florendo Catalino, for P300.00 in 1928. Of the purchase price, P100.00 was paid and receipted for when the land was surveyed, but the receipt was lost; the balance was paid after the certificate of title was issued. No formal deed of sale was executed, but since the sale in 1928, or for more than 30 years, vendee Catalina Agyapao and his son, defendant-appellee Florendo Catalino, had been in possession of the land, in the concept of owner, paying the taxes thereon and introducing improvements.

On 1 February 1949, Grace Ventura, by herself alone, "sold" (as per her Transferor's Affidavit, Exhibit "6") anew the same land for P300.00 to defendant Florendo Catalino,

In 1961, Catalino Agyapao in turn sold the land to his son, the defendant Florendo Catalino.

This being a direct appeal from the trial court, where the value of the property involved does not exceed

P200,000.00, only the issues of law are reviewable by the Supreme Court, the findings of fact of the court a quo being deemed concededly the appellant (Jacinto v. Jacinto, 105 Phil. 218; Del Castillo v. Guerro, L-11994, 25 July 1960; Abuyo, et al. v. De Suave, L-21202, 29 Oct. 1966; 18 SCRA 600, 601). We are thus constrained to discard appellant's second and third assignments of error.

In their first assignment, appellants assail the admission in evidence over the objection of the appellant of Exhibit "3". This exhibit is a decision in favor of the defendant-appellee against herein plaintiff-appellant Grace Ventura, by the council of Barrio of San Pascual, Tuba, Benguet, in its Administrative Case No. 4, for the settlement of ownership and possession of the land. The decision is ultra vires because barrio councils, which are not courts, have no judicial powers (Sec. 1, Art. VIII, Constitution; see Sec. 12, Rep. Act 2370, otherwise known as the Barrio Charter). Therefore, as contended by appellants, the exhibit is not admissible in a judicial proceeding as evidence for ascertaining the truth respecting the fact of ownership and possession (Sec. 1, Rule 128; Rules of Court).

Appellants are likewise correct in claiming that the sale of the land in 1928 by Bacaquio to Catalino Agyapao, defendant's father, is null and void ab initio, for lack of executive approval (Mangayao, et al. vs. Lasud, et al., L-19252, 29 May 1964). However, it is not the provisions of the Public Land Act (particularly Section 118 of Act 2874 and Section 120 of Commonwealth Act 141) that nullify the transaction, for the reason that there is no finding, and the contending parties have not shown, that the land titled in the name of Bacaquio was acquired from the public domain (Palad vs. Saito, 55 Phil. 831). The laws applicable to the said sale are: Section 145(b) of the Administrative Code of Mindanao and Sulu, providing that no conveyance or encumbrance of real property shall be made in that department by any non-christian inhabitant of the same, unless, among other requirements, the deed shall bear indorsed upon it the approval of the provincial governor or his representative duly authorized in writing for the purpose; Section 146 of the same Code, declaring that every contract or agreement made in violation of Section 145 "shall be null and void"; and Act 2798, as amended by Act 2913, extending the application of the above provisions to Mountain Province and Nueva Vizcaya.

Since the 1928 sale is technically invalid, Bacaquio remained, in law, the owner of the land until his death in 1943, when his title passed on, by the law on succession, to his heirs, the plaintiffs-appellants.

Notwithstanding the errors aforementioned in the appealed decision, we are of the opinion that the judgment in favor of defendant-appellee Florendo Catalino must be sustained. For despite the invalidity of his sale to Catalino Agyapao, father of defendant-appellee, the vendor Bacaquio suffered the latter to enter, possess and enjoy the land in question without protest, from 1928 to 1943, when the seller died; and the appellants, in turn, while succeeding the deceased, also remained inactive, without taking any step to reivindicate the lot from 1944 to 1962, when the present suit was commenced in court. Even granting appellants' proposition that no prescription lies against their father's recorded title, their passivity and inaction for more than 34 years (1928-1962) justifies the defendant-appellee in setting up the equitable defense of laches in his own behalf. As a result, the action of plaintiffs-appellants must be considered barred and the Court below correctly so held. Courts can not look with favor at parties who, by their silence, delay and inaction, knowingly induce another to spend time, effort and expense in cultivating the land, paying taxes and making improvements thereon for 30 long years, only to spring from ambush and claim title when the possessor's efforts and the rise of land values offer an opportunity to make easy profit at his expense. In Mejia de Lucas vs. Gamponia, 100 Phil. 277, 281, this Court laid down a rule that is here squarely applicable:

"Upon a careful consideration of the facts and circumstances, we are constrained to find, however, that while no legal defense to the action lies, an equitable one lies in favor of the defendant and that is, the equitable defense of laches. We hold that the defense of prescription or adverse possession in derogation of the title of

the registered owner Domingo Mejia does not lie, but that of the equitable defense of laches. Otherwise stated, we hold that while defendant may not be considered as having acquired title by virtue of his and his predecessors' long continued possession for 37 years, the original owner's right to recover back the possession of the property and title thereto from the defendant has, by the long period of 37 years and by patentee's inaction and neglect, been converted into a stale demand."

As in the Gamponia case, the faro elements of laches[3] are present in the case at bar, namely: (a) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made and for which the complaint seeks a remedy; (b) delay in asserting the complainant's rights, the complainant having had knowledge or notice, of the defendant's conduct and having been afforded an opportunity to institute a suit; (c) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (d) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred. In the case at bar, Bacaquio sold the land in 1928 but the sale is void for lack of the governor's approval. The vendor, and also his heirs after him, could have instituted an action to annul the sale from that time, since they knew of the invalidity of the sale, which is a matter of law; they did not have to wait for 34 years to institute suit. The defendant was made to feel secure in the belief that no action would be filed against him by such passivity, and also because he "bought" again the land in 1949 from Grace Ventura who alone tried to question his ownership; so that the defendant will be plainly prejudiced in the event the present action is not held to be barred.

The difference between prescription and laches was elaborated in Nielson & Co., Inc. vs. Lepanto Consolidated Mining Co., L-21601, 17 December 1966, 18 SCRA p. 1040, as follows:

"Appellee is correct in its contention that the defense of laches applies independently of prescription. Laches is different from the statute of limitations. Prescription is concerned with the fact of delay, whereas laches is concerned with the effect of delay. Prescription is a matter of time; laches is principally a question of inequity of permitting a claim to be enforced, this inequity being founded on some change in the condition of the property or the relation of the parties. Prescription is statutory; laches is not. Laches applies in equity, whereas prescription applies at law. Prescription is based on fixed time, laches is not. (30 C.J.S., p. 522; See also Pomeroy's Equity Jurisprudence, Vol. 2, 5th ed., p. 177)." (18 SCRA 1053).

With reference to appellant Grace Ventura, it is well to remark that her situation is even worse than that of her co-heirs and co-plaintiffs, in view of her executing an affidavit of transfer (Exh. 6) attesting under oath to her having sold the land in controversy to herein defendant-appellee, and the lower Court's finding that in 1949 she was paid P300.00 for it, because she, "being a smart woman of enterprise, threatened to cause trouble if the defendant failed to give her P300.00 more, because her stand (of being the owner of the land) was buttressed by the fact that Original Certificate of Title No. 31 is still in the name of her father, Bacaquio" (Decision, Record on Appeal, p. 24). This sale, that was in fact a quitclaim, may not be contested as needing executive approval; for it has not been shown that Grace Ventura is a non-Christian inhabitant like her father, an essential fact that cannot be assumed (Sale de Porkan vs. Yatco, 70 Phil, 161,175).

Since the plaintiffs-appellants are barred from recovery, their divestiture of all the elements of ownership in the land is complete; and the Court a quo was justified in ordering that Bacaquio's, original certificate be cancelled, and a new transfer certificate in the name of Florendo Catalino be issued in lieu thereof by the Register of Deeds.

FOR THE FOREGOING REASONS, the appealed decision is hereby affirmed, with costs against the plaintiffs-appellants.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, and Capistrano, JJ., concur.
Castro, J., did not take part.

[1] No surname.

[2] Local custom in the place is for a person to adopt a surname of his choice, even if it is not that of the father, if he has any. (Decision, Record on Appeal, p. 17).

[3] See *Go Chi Gun vs. Co Cho*, 96 Phil. 622; *Mejia vs. Gamponia*, ante.

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