

FERNANDO MAPA III, PLAINTIFF-APPELLEE, VS. CRISPINA GUANZON, RAYMUNDO BAYETA, VALENTIN BAYETA, LUCIANA BAYETA, AGUSTIN BAYETA, DOLOROSA BAYETA, AND THE PROVINCIAL TREASURER OF ...*G.R. No. L-25605. June 20, 1977*

Ponente: ANTONIO, J.

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Direct appeal to this Court by defendants-appellants, Crispina Guanzon, Raymundo, Valentin, Luciana, Agustin and Dolorosa, all surnamed Bayeta, from the decision of the Court of First Instance of Negros Occidental in Civil Case No. 279 (6616).[1] This appeal was instituted before Section 17 of Republic Act No. 296 was amended by Republic Act. No. 5440, which took effect on September 9, 1968.

The basic question of law, however, is whether or not the question of ownership over Lot. No. 2636 could still be relitigated in said Civil Case No. 279 (6616), in view of the final dismissal on the merits of Civil Cases Nos. 4666 and 5557, which were actions instituted by herein defendants-appellants to recover the ownership and possession of the same property from plaintiff-appellee.

The records show that Isidoro Bayeta was the grantee of a homestead of fourteen (14) hectares, eighty-two (82) ares and seventy-nine (79) centares (subject matter of this case and hereinafter referred to as Lot No. 2636), located in Barrio Langub, Municipality of Escalante, Province of Negros Occidental, under Homestead Patent No. 8105, dated August 2, 1925,[2] and by virtue of which he was issued, on September 21, 1925, Original Certificate of Title No. 268[3] over said property. On September 7, 1928, or three (3) years after the issuance of the aforesaid title, Isidoro Bayeta and his wife, Crispina Guanzon, one of the defendants-appellants herein, sold the said land to Spouses John Roemer and Julia Roemer for the consideration of P1,482.00. It is not clear, however, whether the original certificate of title over the property in the name of Isidoro Bayeta was delivered to the Roemers, but in the private instrument evidencing the sale the vendors stated that "(w)e make as integral part of this instrument the documents that show our ownership over the immovable subject of this sale." [4]

On March 11, 1935, the Roemers sold, by means of a public instrument, the land to Lucas Guirnela for P862.50[5] Guirnela, in turn, sold said land on November 10, 1936 to Fernando Mapa, Jr., who immediately took possession thereof,[6] and paid taxes therefor in the name of Isidoro Bayeta as the title and assessment of the land remained in his (Isidoro's) name.[7]

On January 31, 1950, Fernando Mapa, Jr. leased said land to Vicente Omarementaria and Fermin Ballesteros for a period of eight (8) years, that is, from the agricultural year 1950-1951 to 1957-1958.[8] The contract of lease was registered with the Danao Sugar Central for sugar cane milling purposes.[9]

On January 26, 1953, said land was sold at public auction for non-payment of taxes and was bought by the Province of Negros Occidental there being no bidders.[10] It was repurchased by Fernando Mapa, Jr. on January

26, 1954 in the total amount of P684.60.[11] On December 28, 1956, said land was again sold at public auction for non-payment of taxes and the Province of Negros Occidental again bought the same, there being also no bidders.[12] The final bill of sale in favor of the Province of Negros Occidental was issued on March 4, 1959, and registered in the Register of Deeds on March 25, 1959.[13]

Meanwhile, or on January 13, 1958, the original certificate of title in the name of Isidoro Bayeta was reconstituted administratively and the recons-tituted title in the name of Isidoro Bayeta was given the number, to wit: Certificate of Title No. RP-1019 (268).[14] On the same date, January 13, 1958, the heirs of Isidoro Bayeta, namely, Crispina Guanzon, his widow; and Raymundo, Valentin, Luciana, Agustin and Dolorosa, all surnamed Bayeta, defend-ants-appellants herein, filed an action against Fernando Mapa for recovery of ownership of Lot No. 2636 (docketed as Civil Case No. 4666 of the Court of First Instance of Negros Occidental)[15] alleging, among other things, that Isidoro Bayeta during his lifetime acquired aforesaid property from the gov-ernment as homestead; that sometime in 1950, Isidoro Bayeta entered into a verbal agreement with the defendant Fernando Mapa whereby the former leased to the latter said land at an agreed yearly rental of P2,000.00; that the lease agreement expired on December 31, 1955 without the defendant's paying any rental, notwithstanding repeated demands made by Isidoro Bayeta; that shortly after the death of Isidoro Bayeta on April 17, 1956, the plaintiffs demanded of the defendant that said property be returned to them, but the defendant refused to return the said property in spite of repeated demands; that the defendant claimed and asserted interest therein adverse to the plaintiffs. They prayed therein that they be declared owners of the said property and the defendant be ordered to restore them to its possession. The complaint, however, was dismissed on October 5, 1959 for lack of interest.

On November 29, 1959, the same heirs of Isidoro Bayeta filed with the Court of First Instance of Negros Occidental another complaint against Fernando Mapa, docketed as Civil Case No. 5557,[16] also for recovery of ownership and possession of the same parcel of land subject of Civil Case No. 4666. They alleged therein that the deed of sale in favor of Lucas Guirnela is "null and void for lack of consi-deration and consent, and for being contrary to the express provisions of the public land law," Upon motion of the defendant Mapa to dismiss the complaint, the Court of First Instance of Negros Occi-dental dismissed the same on February 16, 1960 on the ground of res judicata as the dismissal of Civil Case No. 4666 is with prejudice and had the effect of adjudicating the case on the merits. When their motion for reconsideration was denied by the court, the plaintiffs therein appealed to the Court of Appeals, but the Court of Appeals certified the case to this Court stating that the issue involved there-in was "solely on the interpretation of the order of the court a quo, dated October 5, 1959, particu-larly the dispositive portion thereof which is a legal question." This Court, in its decision prom-ulgated on February 28, 1963, in G. R. No. L-19249, [17] sustained the ruling of the lower court, to wit:

"The only issue we are called upon to determine in this proceedings, is the import of the Order of October 5, 1959. It will be noted that the lower court made a clear interpretation of the Order, when it said: 'x x. The first sentence of the dispositive part of the order in question refers to the dismissal of the complaint, which is 'without any condition at all, and under Section 3, Rule 30 of the Rules of Court, it is understood to be with prejudice, and shall have the effect of an adjudication on the merits.' We share the view of the court a quo. No other reasonable interpretation could have been meant. And considering the fact that the judge who issued the controversial order, was also the one who interpreted or clarified the same, it becomes apparent that what the court really ordered when it dismissed the complaint was a dismissal with prejudice. If he had meant what the appellants want Us to understand, his Honor could have likewise suffixed the dismissal of the complaint with the phrase 'without prejudice, in the same way he did with the dismissal of the defendant's counterclaim. The argument of appellants that the word 'likewise' refers or modified both the complaint and counter-claim, is, to Our mind, untenable. Even under ordinary rules of grammar, the phrase 'without prejudice' appearing on the second sentence of the dispositive portion of the decision, should modify or refer only to the counterclaim. Had the two sentences been separated by a comma, there would have been no doubt that the phrase without

pre-judice had modified and/or referred to the dis-missal of both the complaint and the counterclaim. But there were two different and distinct sentences, containing different subjects, predicates and modifiers."

As a consequence of the dismissal by the Court of Civil Case No. 4666 and provided now with the deed of sale between Isidoro Bayeta and the Roemers and the confirmation of Lucas Guinela of the sale of Lot No. 2636 to him, Fernando Mapa, Jr. wrote to the Provincial Board of Negros Occidental on October 15, 1959, praying that he be allowed to repurchase Lot No. 2636 from the province. The Provincial Board, acting upon the request of Mr. Napa, passed and approved Resolution No. 1742-A on December 16, 1960,[18] to wit:

"In view of the petition of Mr. Fernando Napa, III, Actual Occupant and owner of Lot No. 2636 of Cadastral Survey of Escalante requesting to be allowed to purchase the said lot (Lot No. 2636) which had been adjudicated to the Province of Negros Occidental for non-payment of land taxes due on the land and due to the decision of the Court of First Instance of this Province dated October 5, 1959 and February 16, 1960, deciding the ownership of said land in his favor in Civil Cases Nos. 4666 and 5557.

"On motion by Hon. Mario N. Peña, Member, THE BOARD RESOLVED, To authorize the Provincial Treasurer to sell said land, Lot No. 2636 to said Fernando Mapa III for the value of the taxes due on the land."

On January 3, 1961, plaintiff-appellee Fernando Mapa III, who by that time had already bought the land from his father, Fernando Mapa, Jr., on the basis of the afore-mentioned resolution of the Provincial Board, went to the Office of the Provincial Treasurer of Negros Occidental and offered to re-purchase the land, but Acting Provincial Treasurer A. S. Narboneta refused to receive the payment.

In view of his refusal, plaintiff-appellee Fernando Mapa III filed, on March 11, 1961, a special civil action for mandamus against Acting Provincial Treasurer A. S. Narboneta with the Court of First instance of Negros Occidental and docketed therein as Special Proceedings No. 6068. [19] On March 13, 1961, counsel for the plaintiff filed a notice of lis pendens with the Register of Deeds of Negros Occidental. [20]

In the meantime, or on January 27, 1961, the heirs of Isidoro Bayeta, the defendants-appellants herein, executed an Extrajudicial Partition[21] whereby they divided and adjudicated among themselves the afore-mentioned Lot No. 2636 in the proportion described therein. In that agreement of partition, Agustin Bayeta purchased all the rights, interest and participations of his co-heirs on said property for a consideration of P1,000.00. By virtue of said extrajudicial partition which was inscribed on the reconstituted Certificate of Title No. RP-1019 (268), on March 22, 1961, said reconstituted title was cancelled and Transfer Certificate of Title No. T--29483 in the name of Agustin Bayeta was issued in lieu thereof.[22] On the basis of the extrajudicial partition and sale, Acting Provincial Treasurer A. S. Narboneta allowed Agustin Bayeta to repurchase said Lot No. 2636 and was issued the Certificate of Repurchase on March 23, 1961, that is, two (2) days before the two-year period expired, upon paying the total amount of P816.41.[23] In allowing Agustin Bayeta to repurchase the property, the Acting Provincial Treasurer believed that on the basis of the tax records of his office, the heirs of Isidoro Bayeta, not Fernando Mapa, were the persons entitled to repurchase the property within the two-year period from the date of registration of the final deed of sale.[24]

Because the Acting Provincial Treasurer allowed the repurchase of the land by Agustin Bayeta notwithstanding the pendency of the mandamus case, plaintiff Fernando Mapa III, successor-in-interest of Fernando Mapa, Jr., filed on May 18, 1962, the present case against the heirs of Isidoro Bayeta and the Provincial Treasurer of Negros Occidental for cancellation of Transfer Certificate of Title No. T-2948 in the name of Agustin Bayeta and the Certificate of Repurchase issued by the Provincial Treasurer in favor of Agustin Bayeta, and the issuance of an order requiring the Provincial Treasurer to execute the deed of sale in favor of said plaintiff, after payment of all taxes due on said property. Thereafter, or on June 23, 1962, the mandamus case, on petition of plaintiff, was dismissed in view of the filing of the case at bar.[25]

In their answer to the complaint, defendants-appellants asserted that there is no sufficient cause of action against them as they are the legitimate heirs of Isidoro Bayeta and that Agustin Bayeta is a successor-in-interest of Isidoro Bayeta and a purchaser in good faith and for value of a property sold under auction sale from a registered owner, which is the Province of Negros Occidental, and that title to the lot in question was transferred to him by the Province of Negros Occidental upon payment of taxes and penalties amounting to P816,41. Appellants further alleged that Lot No. 2636 in question had been acquired by their father, Isidoro Bayeta, by homestead which was approved and patented on August 28, 1925 and was inscribed in the registration book of the Register of Deeds for the Province of Negros Occidental on September 21, 1925. Moreover, appellants maintained that since under Section 118 of Commonwealth Act No. 141, from the date of the approval of the application (homestead) and for a term of five (5) years from and after the date of issuance of the patent or grant, lands acquired under free patent or homestead cannot be subject to encumbrances or alienations nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period, plaintiff's contention under paragraph 7 of his complaint to the effect that his ownership proceeded from a sale purportedly dating back to the year 1928, is without legal basis and is unenforceable being contrary to law.[26]

In reply thereto, plaintiff-appellee contended that Lot No. 2636 of the Escalante Cadastre has been sold by Isidoro Bayeta, father of the defendants-appellants, on September 7, 1928 and for more than 30 years thereafter, no person, much less the defendant Agustin Bayeta who had been living within the vicinity of said lot, made any claim of ownership or of possession of the same. Any demand, therefore, on the part of Agustin Bayeta for the title or possession of said lot is stale and unenforceable."[27]

On November 4, 1965, the lower court rendered judgment in favor of the plaintiff-appellee and against the defendants-appellants. According to the trial court, the question of ownership over the said property (Lot No. 2636) "was ventilated in Civil Cases Nos. 4666 and 5557 in the Court of First Instance of Negros Occidental which dismissed both and affirmed by the Supreme Court in G. R. No. L-19249. The decisions in the two cases were already final and an adjudication on the merits."

Thus, the lower court stated:

"The question of ownership of this property, as indicated above, at the time of the sale at public auction is the crux of the case. This question was ventilated in Civil Cases Nos. 4666 and 5557 in the Court of First Instance of Negros Occidental which dismissed both and affirmed by the Supreme Court in G. R. No. L-19249. The decisions in the two cases were already final and an adjudication on the merits * * *. In the complaint in Civil Case No. 5557 * * *, the plaintiffs alleged ownership and prayed the Court to be declared as such. This case, having been disposed of by a final decision, the issues involved there-in cannot be passed upon in the present case as the same have already been barred by prior judgment. In effect the defendants in said cases Nos. 4666 and 5557 were declared the owners of the property. The conclusion, therefore, is inescapable and clear that as of February 28, 1963 (date of decision in G. R. No. L-19249), Fernando Mapa, Jr. was declared the owner of the property and this decision retroacts as of the date the same was sold by Isidoro Bayeta to Mr Roemer. As such, Mr. Fernando Mapa, Jr. had the better right than the heirs of Isidoro Bayeta to repurchase the property. The certificate of repurchase issued by the Assistant Provincial Treasurer cannot affect or divest him of his right to repurchase the property as it was done during the pendency of the mandamus case and after the notice of lis pendens was sent to the Register of Deeds. Therefore, Agustin Bayeta cannot be considered as a buyer in good faith and for value.

"However, this Court is of the opinion and so holds that the then Assistant Provincial Treasurer, Mr. A. S. Narboneta, cannot be held guilty of bad faith as he acted upon the opinion of the provincial fiscal and upon his honest belief that the heirs of Isidoro Bayeta were entitled to repurchase the property, considering that the question of ownership was finally resolved only in 1963."[28]

Consequently, the lower court declared the Certificate of Repurchase, dated March 23, 1961, in favor of Agustin Bayeta and Transfer Certificate of Title No. T-29483 in his name as null and void and ordered their cancellation. Plaintiff, however, was ordered to pay, by way of reimbursement, Agustin Bayeta the sum of P816.41, as well as the payments he made for taxes, both with interest at the legal rate until the amounts were paid.

Believing that the decision of the lower court was contrary to law, the defendants appealed to this Court, assigning the following errors, to wit:

"I. THE LOWER COURT ERRED IN HOLDING THAT THE JUDGMENT OF THIS HONORABLE COURT DATED FEBRUARY 28, 1963, ENTITLED 'CRISPINA GUANZON, ET AL. VS. FERNANDO MAPA' IN G.R. NO. L-19249, INVOLVING THE SAME LOT 2636 OF ESCALATE CADASTRE VESTED TITLE ON THE PLAINTIFF-APPELLEE OVER SAID LOT, AND SAID JUDGMENT RETROACTS AS OF THE DATE WHEN SAID PROPERTY LOT 2636 WAS SOLD BY ISIDORO BAYETA TO JOHN ROEMER.

"II. THE LOWER COURT ERRED IN NOT HOLDING THAT LOT 2636 IS A HOMESTEAD LOT AND ANY CONVEYANCE THEREOF BEFORE THE LAPSE OF FIVE-YEARS PERIOD FROM THE DATE OF THE ISSUANCE OF PATENT TO ANY PRIVATE PERSON MORE ESPECIALLY WHERE THE DOCUMENT OF CONVEYANCE IS JUST A MERE PRIVATE DOCUMENT AND NOT RATIFIED BY A NOTARY PUBLIC IS VOID AB INITIO.

"III. THE LOWER COURT ERRED IN NOT HOLDING THAT REGISTRATION IS THE OPERATIVE ACT TO CONVEY AND AFFECT THE LAND, AND SINCE THE APPELLANT AGUSTIN BAYETA HAD PURCHASED THE LAND LOT 2636 AT PUBLIC AUCTION SALE FROM THE DEFENDANT PROVINCE OF NEGROS OCCIDENTAL, HE IS THEREFORE CONSIDERED A PURCHASER IN GOOD FAITH AND FOR VALUABLE CONSIDERATION, AND HENCE ENTITLED TO THE PAYMENT OF RENTALS AND DAMAGES FOR THE LAND UNTIL HE IS PUT IN POSSESSION.

"IV. THE LOWER COURT ERRED IN NOT HOLDING THAT A COURT OF EQUITY MUST BE VIGILANT TO THOSE WHO EXPLOIT IGNORANT PEOPLE ESPECIALLY WHERE THE POLICY OF THE GOVERNMENT IS TO GIVE LAND TO THE LANDLESS."

1. We agree with the lower court that the basic question is the ownership over Lot No. 2636 which cannot be litigated anew in this case, in view of the dismissal of the complaint in Civil Case No. 4666 which, in *Guanzon, et al. v. Mapa*,^[29] this Court declared to be a dismissal with prejudice and had the effect of an adjudication of the case on the merits. Thus, this Court sustained the order of the trial court in Civil Case No. 5557, dismissing the complaint therein for the recovery of the ownership and possession of Lot No. 2636, on the ground that such action is already barred by the prior judgment of the Court in Civil Case No. 4666.

We have examined the answer of defendants-appellants in the case at bar (Civil Case No. 279 [6616]) and found that its special and affirmative defenses are substantially the same as the allegations of the complaint filed by the same parties in the prior case (Civil Case No. 5557). The subject matter, the cause of action in the first and the special and affirmative defenses in the case at bar, as well as the parties are the same. Thus, in both the complaint in Civil Case No. 5557 and in their answer in this case, the defendants-appellants predicated their right to recover the ownership and possession of Lot No. 2636 on the alleged nullity of the conveyance made by Isidoro Bayeta, their predecessor-in-interest, in favor of Spouses John C. Roemer and Julia Roemer and, therefore plaintiff-appellee being the successor-in-interest of the Roemers could not have acquired any title over said property. In both pleadings, defendants-appellants claim that the sale is not valid because it was made within the prohibited period of five (5) years provided by the Public Land Law.^[30] Since in *Guanzon, et al. v. Mapa*, *supra*, this Court ruled that the action of the herein defendants-appellants, who were then the plaintiffs-appellants

in said Civil Case No. 5557, to recover the ownership and possession of Lot No. 2636, is barred by the prior and final judgment in Civil Case No. 4666, there is no question now that their attempt to recover the ownership and possession of the same property from plaintiff-appellee is equally barred under the principle of *res judicata*. Under the doctrine of *res judicata*, an "adjudication is final and conclusive not only as to the matter actually determined, but as to every other matter which the parties might have litigated and have had decided as incident to or essentially connected with the subject matter of the litigation, and every matter coming within the legitimate pur-view of the original action, both in respect to matters of claim and of defense,"[31] It cannot be denied that the title and possession over the pro-erty was a matter in issue in the previous case.

By virtue of the previous judgment, the defen-dants-appellants are now precluded not only from questioning in this action the validity of the sale of Lot No. 2636 from Isidoro Bayeta to the Roemer spouses but also the right of ownership and possess-ion of plaintiff-appellee over the said property.

2. But Agustin Bayeta, one of the defendants-appellants, insists that when the Province of Negros Occidental acquired the property on December 28, 1956 at the tax auction sale, a certificate of title was issued to the aforestated province "free from all liens and encumbrances", subject only to two (2) years period of redemption in accordance with the assessment law, and, therefore, when he purchased the lot in question from the Province of Negros Occidental and said sale was registered with the Register of Deeds of said province and Transfer Certificate of Title No. T-29483 issued to him, he was a purchaser in good faith and for value and entitled to the ownership and possession of the property. He argues that it is the act of registration that operates to convey or affect this registered property.

It should be remembered, however, that when Agustin Bayeta repurchased the property from the provincial government of Negros Occidental on March 23, 1961, the action of Agustin Bayeta and his co?heirs to recover the ownership and possession of the same property from Fernando Mapa, Jr. in Civil Case No. 5557 was dismissed by the Court of First Instance of Negros Occidental on February 16, 1960 on the ground of *res judicata*. It must be noted also that plaintiff-appellee and his predecessors-in-interest have been in continuous possession of this parcel of land since 1928 until 1958 under claim of ownership adverse to all others, without defendants, appellants or their predecessors questioning the former's adverse possession. As a result of their inaction, the property was sold by the Roemers to Lucas Guirnela on March 11, 1935. Guirnela, in turn, sold it to Fernando Mapa, Jr. on November 10, 1936, and later, it was conveyed to plaintiff- appellee who is now in possession of said property and the one paying the realty taxes thereon. While it cannot be denied that no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession, this legal guarantee may in appropriate cases yield to the right of a third person in the equitable principle of laches.[32] Moreover, at the time of the sale at public auction of the lot in question on December 28, 1956 for non-payment of taxes or tax delinquency, it was Fernando Mapa, Jr. who was in possession of the property "en concepto de dueño".[33] Being the taxpayer of the land, communications from the Municipal Treasurer of Escalante, Negros Occidental and the Provincial Treasurer of said province regarding the taxes thereon were addressed to him.[34] Tax receipts for taxes paid on said lot, although issued in the name of Isidoro Bayeta, contained the notation that the payments mere made by Fernando Mapa.[35] As a matter of fact, when the same property was first sold at public auction for non-payment of taxes On January 26, 1953 and the same was awarded to the Province of Negros Occidental there being no bidders, it was Fernando Mapa, Jr. who was allowed to repurchase the property on January 26, 1954. Since it cannot he disputed that Fernando Mapa, Jr. was the taxpayer of the property and the one who defaulted in the payment of those taxes, he is, therefore, the party called, upon by the law to exercise the right of redemption or repurchase with in two (2) years from the date of the registration of the sale, that is, up to March 25, 1961.[36] Thus, the law specifically authorizes only the "delinquent taxpayer" who, in this case, at the time of the sale at public auction on December 28, 1956, was no other than Fernando Mapa, Jr or any other person in his behalf, to

repurchase the property.

"SEC. 38. Repurchase of real property after sale. – Within the term of two years from the date of the sale, the delinquent taxpayer or any other person in his behalf shall have the right to re-purchase the property sold by paying to the pro-vincial treasurer or his deputy the total amount of taxes and penalties due up to the date of re-purchase, * * *." (Italics supplied.)[37]

Indeed, not one of the defendants-appellants as heirs of Isidoro Bayeta, could have validly exercised the right of redemption or repurchase of the pro-property. They were already barred by the prior judgment of the Court of First Instance of Negros Occidental in Civil Case No. 4666 from asserting any right of ownership or title over said property. They could not also exercise the right to repurchase as the "delinquent taxpayer" since they were never the tax-payer of said property. Considering, therefore, that the repurchase made by Agustin Bayeta was in contravention of the final judgment of the Court of First instance of Negros Occidental in Civil Case No. 5557, which was affirmed by this Court, and of the specific provision of Section 38 of Commonwealth Act No. 470, as amended, which confers the right to repurchase only to the "delinquent taxpayer" or any person in his behalf, such repurchase although registered with the Register of Deeds, is ineffectual as a basis of title over the property. Agustin Bayeta could not also invoke the alleged indefeasibility of the transfer certificate of title issued to him, since he is precluded from doing so being a holder in bad faith of said certificate.[38] It did create, however, a lien in his favor for the price of the repurchase.[39] This should be so, for in redeeming or repurchasing the land in question, Bayeta had prevented its loss which should have been to the prejudice of the plaintiff-appellee.

WHEREFORE, the judgment appealed from is hereby AFFIRMED, with costs against the defendants-appellants.

Fernando, (Chairman) and Martin, JJ., concur.

Barredo and Aquino, JJ., in the result.

Concepcion, Jr., J., is on leave.

[1] Entitled "Fernando Napa III, Plaintiff, vs. Crispina Guan-zon, Raymundo Bayeta, Valentin Bayeta, Luciana Bayeta, Agustin Bayeta, Dolorosa Bayeta, and the Provincial Treasurer of Negros Occidental, Defendants, for Cancellation of Certificate of Repurchase and Title".

[2] In the preliminary paragraph of reconstituted Certificate of Title No. RP-1019 (268), Exhibit "4", it is stated that the patent was issued by the President of the Philippines, dated at Manila on August 28, 1925. The quoted contents of the homestead patent, however, appears to have been signed by Leonard Wood, Governor General of the Philippines, on August 2, 1925. In the Deed of Sale, Exhibits "F" and "F-1", between Isidoro Bayeta and the Roemers, it is stated that the patent was issued on August 2, 1925.

[3] In the reconstituted title, Exhibit "4", it is indicated that the original number is "268". The Deed of Sale, Exhibits "F" and "F-1", states the number as "208", while in the pleadings of the Bayetas in Civil Cases Nos. 4666 and 5557, as well as in the Extrajudicial Partition, Exhibit "Q", it appears that the number is "298".

[4] Exhibits "F" and "F-1" The Spanish text of the quoted statement reads "Hacese parte integrante de esta escritura los documentos que acreditan nuestra propiedad sobre el inmueble objeto de esta venta."

[5] Exhibit "E".

[6] Exhibit "D"; Testimony of Fernando Mapa, Jr., t.s.n., February 7, 1963, p. 24.

[7] Exhibits "M" and "N".

[8] Exhibits "K", "K-1" and "K-2".

[9] Brief for Plaintiff-Appellee p. 4.

[10] Exhibits "V" and "W".

[11] Exhibits "V-1" and "W".

[12] Exhibit "T".

[13] Exhibit "U".

[14] Exhibit "4".

[15] Exhibit "CC".

[16] Exhibit "EE".

[17] 7 SCRA 457,459-460.

[18] Exhibit "Y".

[19] Exhibit "A".

[20] Exhibit "B".

[21] Exhibit "Q" of plaintiff, which is Exhibit "1" of the defendants.

[22] Exhibit "4", page B.

[23] Exhibit "R" of plaintiff, which is Exhibit "2" of the defendants.

[24] Record on Appeal, p. 28.

[25] Exhibit "5".

[26] Brief for the Appellants, pp. 6-8.

[27] Record on Appeal, p. 46.

[28] Record Appeal, pp. 81-82.

[29] 7 SCRA 457.

[30] Sections 116 and 122, Act No. 2874, otherwise known as the Public Land Law.

[31] Freeman on Judgments, pp. 1421-1422. Yusingco v. Ong Hing Lian, L-26523, December 24, 1971, 42 SCRA 589; De Goma v. De Goma, L-18739, December 28, 1964, 12 SCRA 674.

[32] Mejia de Lucas v. Gamponia, 100 Phil. 277. In this case, this Court, citing Penn Mutual Life Ins. Co., et al., vs. City of Austin, et al., U. S. 962, said:

"The reason upon which the rule is based is not alone the lapse of time during which the neglect to enforce the right has existed, but the changes of condition which may have arisen during the period in which there has been neglect. In other words, where a court of equity finds that the position of the parties has to change that equitable relief can-not be afforded without doing injustice, or that the intervening rights of third persons may be destroyed or seriously impaired, it will not exert its equitable powers in order to save one from the consequences of his own

neglect.' (Penn Mutual Life Ins. Co., et al., vs. City of Austin, et al., U. S. 962.)

"In effect, the principle is one of estoppel be-cause it prevents people who have slept on their rights from prejudicing the rights of third parties who have placed reliance on the inaction of the original patentee and his successors in interest." (pp. 282-283.)

In *Heirs of Batiog Lacamen v. Heirs of Laaruan*, 65 SCRA 605, We found the occasion to discuss the equity of laches and had compared it with prescription, to wit':

""Laches' has been define as 'such neglect or omission to assert a right, taken in conjunction with lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar inequity.' It is a delay in the assertion of a right 'which works disadvantage to another' because of the 'inequity founded on some change in the condition or relations of the property or parties.' It is based on public policy which, for the peace of society, ordains that relief will be denied to a stale demand which otherwise could be a valid claim. It is different from and applies independently of prescription. While prescription is concerned with the fact of delay, laches is concerned with the effect of delay. Prescription is a matter of time; laches is principally a question of 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 a fixed time, laches is not." (at pp. 609-610.)

[33] See Exhibits "K" and "K-2", Lease Contract, par. II.

[34] Exhibit "O", Statement of Real Estate Tax Delinquency; Exhibit "P", Notice of Sale at Public Auction of Delinquent Real Property; Exhibit "AA", Letter of the Provincial Treasurer, re Tax Delinquency for the Year 1954-1955; Exhibit "AA-1", Statement of Real Estate Tax Delinquency from the Treasurer; Exhibits "BB", "BB-1", "CC" and "CC-1", Statements of Real Estate Tax Delinquency from the Municipal Treasurer of Escalante.

[35] Exhibits "M", "N", "AA-1", "AA-2" and "AA-III".

[36] The period of redemption of registered lands sold for tax delinquency commences to run not from the date of the auction or tax sale but from the day the sale was registered in the Office of the Register of Deeds. (*Techico v. Serrano*, 105 Phil. 956. See also *Santos v. RFC, et al.*, 101 Phil. 980.)

[37] Section 38. Commonwealth Act No. 470, as amended by Republic Act No. 1275, approved on June 14, 1955.

[38] *Ignacio v. Chua Hong*, 52 Phil. 940.

[39] *Borja v. Addison*, 44 Phil. 895; *Manansala v. Baron, et al.*, 105 Phil. 1051.

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