

FELIPA FAJA, SUBSTITUTED BY: NEMESIO GARDOSE, ANICIA GARDOSE AND EUFROSINO GARDOSE, PETITIONERS, VS. HON. COURT OF APPEALS, HON. TOMAS R. LEONIDAS, JUDGE OF THE COURT OF FIRST ...

G.R. No. L-45045. February 28, 1977

Ponente: MUÑOZ PALMA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4dc90a0b813e/>

MUÑOZ PALMA, J.:

The summary judgment rendered by Judge Tomas R. Leonidas of the Court of First Instance of Capiz, in Civil Case No. M-355, entitled "Levine Frial, plaintiff versus Felipa Faja, defendant", and affirmed by respondent Court of Appeals, is sought to be set aside in this Petition for having been rendered in gross violation of law resulting in a deprivation of petitioners' right to due process.

We find this Petition meritorious under the rule that summary judgment may be rendered only when, except as to the amount of damages, there is no genuine issue as to any material fact, and that the moving party is entitled to a judgment as a matter of law, which as a matter of law, which is not the situation between the parties in this case.[1]

Levine Frial filed with the Court of First Instance of Capiz, Branch III, situated in Mambusao, Capiz, a complaint docketed as Civil Case No. M-355 for "Recovery of Possession and Damages" of a parcel of land situated in Barrio San Agustin, Dumalag, Capiz, with an area of 235,854 square meters more or less, covered by Original Certificate of Title No. RO-1496 in the name of Indalecio Frial, father of Levine Frial. The complaint alleged that since 1945 up to the present (the complaint is dated April 15, 1975) the defendant Felipa Faja had been illegally possessing and occupying the above-mentioned property without the knowledge and consent of the registered owner, Indalecio Frial now deceased, nor of his heirs, one of whom is Levine Frial; that when plaintiff Frial came to know that Felipa Faja was occupying the property the former immediately demanded its return but Faja refused, hence, the complaint for recovery of possession of the land in question and the unearned income from the land during the period of not less than 30 years amounting to around P150,000.00.[2]

Defendant Felipa Faja in her Answer specifically denied under oath the allegations in the complaint as to the ownership of plaintiff Frial, and by way of special and affirmative defenses claimed: that she is the lawful owner and in actual possession of the property which is identical to Lot No. 4010 of the Cadastral Survey of Dumalag, Capiz, which she inherited from her father, Marcelino Faja, who died in 1925, the latter in turn having inherited the same property from his father, Antonio Faja, who died in 1915; that she and her predecessors-in-interest have been in possession of the property publicly, peacefully, continuously, and adversely, in the concept of owners, for more than 60 years, the property having been declared for taxation purposes in the name of Marcelino Faja under Tax Declaration No. 4807, revised under Tax Declaration No. 10031 in the year 1921, and presently in the name of Felipa Faja under Tax Declaration No. 5523 and for which the land taxes have been paid since the time Felipa Faja's predecessors have been in possession; that Felipa Faja is actually living on the land in question, and that the

same is planted with coconut trees, mangoes, bananas, santol, buri, while around 8 hectares are devoted to rice and corn; that neither plaintiff Levine Frial nor his father Indalecio Frial ever lived on or possessed said property "even for a single moment", and any Certificate of Title secured by Indalecio Frial was obtained through fraud, deceit, and misrepresentation, the latter not being the owner thereof and not having occupied or possessed the property in concept of owner; that as her counterclaim, defendant Faja prays that she be declared the lawful owner of the property, that plaintiff Frial be directed to reconvey the property to her in the sense that the Certificate of Title covering said property be cancelled and, in lieu thereof, a Transfer Certificate of Title be issued in her favor.[3]

In his Reply to Felipa Faja's Answer, plaintiff Levine Frial denied that the Certificate of Title of Indalecio Frial was secured through fraud and misrepresentation, and alleged that Faja's right to question the validity of the Title had prescribed.[4]

After all responsive pleadings were filed, the case was called for a pre-trial conference during which Judge Leonidas directed the parties to submit memoranda on the question of whether or not a summary judgment may be promulgated.[5]

In his Memorandum filed with the trial court, plaintiff Levine Frial sustained the view that a summary judgment may properly be issued on the basis of the pleadings inasmuch as the only issues to be resolved were:

"(a) Can a registered owner of a piece of land who has acquired title thereto for almost 35 years still recover possession thereof from actual occupants who claim long and continuous possession of the same property but without title?

"(b) Is reconveyance of a titled property still legally possible, considering that a period of more than 10 years had elapsed since the issuance of the decree of registration?" (p. 36, rollo)

On the other hand, Felipa Faja in her Memorandum averred that the petition for a summary judgment should be denied as there was a genuine controversy between the parties which required a trial on the merits and that the alleged prescription of her counter-claim for reconveyance cannot be the subject of a summary judgment, aside from the fact that her cause of action for the reconveyance to her of the property arose only from the moment she was served copy of the complaint which was in 1975, consequently, her counterclaim was filed well within the statutory period.[6]

In an order dated December 3, 1975, the trial Judge sustained Levine Frial's submission stating:

"It appearing from the complaint and the answer, as well as the annexes thereto, and the written arguments of the parties, that there is no genuine issue as to a material fact, except as to the amount of damages, it is ordered that a summary judgment be as it is hereby entered in favor of the plaintiff, and this case is set for trial on the sole issue of damages on December 22, 1975, at 8:00 on the morning.

"SO ORDERED." (p. 45, *ibid.*)

A motion for reconsideration was filed with the trial court[7] but the same was denied for lack of merit in an order dated February 9, 1976.[8]

Because Felipa Faja died on November 25, 1975, her children, all surnamed Gardose, in substitution for their deceased mother, filed with the Court of Appeals a Petition for Certiorari (CA-G.R. No. SP-05151-R) and prayed that the aforequoted order for summary judgment be set aside. Respondent Appellate Court through its Eighth Division dismissed the Petition holding that "..... a summary judgment is proper as there is no genuine issue as to any material fact", reasoning that inasmuch as the disputed property is covered by an Original Certificate of Title, any action to annul that title on the ground of fraud prescribes after the lapse of 10 years from the issuance of the

title and therefore the counterclaim for reconveyance pleaded in the answer of Felipa Faja cannot be sustained.[9]

We do not agree with respondent Court for the following reasons:

(1) The counterclaim of Felipa Faja for reconveyance to her of the litigated property has not prescribed. It is an established rule that an action to quiet title to property in the possession of a plaintiff is imprescriptible.[10] Inasmuch as it is alleged in paragraph 3 of Frial's complaint, that Felipa Faja has been in possession of the property since 1945 up to the present or for a period of 30 years, her cause of action for reconveyance, which in effect seeks to quiet her title to the property, falls within that rule. If at all, the period of prescription began to run against Felipa Faja only from the time she was served with copy of the complaint in 1975 giving her notice that the property she was occupying was titled in the name of Indalecio Frial. There is settled jurisprudence that one who is in actual possession of a piece of land claiming to be owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, the reason for the rule being, that his undisturbed possession gives him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in possession.[11] No better situation can be conceived at the moment for Us to apply this rule on equity than that of herein petitioners whose mother, Felipa Faja, was in possession of the litigated property for no less than 30 years and was suddenly confronted with a claim that the land she had been occupying and cultivating all these years, was titled in the name of a third person. We hold that in such a situation the right to quiet title to the property, to seek its reconveyance and annul any certificate of title covering it, accrued only from the time the one in possession was made aware of a claim adverse to his own, and it is only then that the statutory period of prescription commences to run against such possessor.

(2) The existence of a Certificate of Title in the name of respondent Frial's father is not conclusive on the question of ownership of the land in controversy, because the validity of such a certificate is put in issue by allegations of fraud and misrepresentation by the defendant below, Felipa Faja. Petitioners herein correctly invoked in their Petition for certiorari filed before respondent tribunal, what this Court stated in *Monticines, et al. vs. Court of Appeals, et al.*, September 4, 1973, 53 SCRA 14, through Justice Enrique M. Fernando, to wit:

"Nor does the mere fact that respondent-appellee Marcelo Coral could show a certificate of Torrens Title in his favor conclude the matter, the question of fraud having been reasonably raised and the remedy of reconveyance sought. Only recently, in *Philippine Commercial and Industrial Bank v. Villalva*, (L-28194, November 24, 1972, 48 SCRA 31) this Court had occasion to state: 'There is, however, a countervailing doctrine, certainly not of lesser weight, that mitigates the harshness of the iron-clad application of the principle attaching full faith and credit to a Torrens certificate. It is inspired by the highest concept of what is fair and what is equitable. It would be a sad day for the law if it were to be oblivious to the demands of justice. The acceptance accorded the Torrens system of registration would certainly be impaired if it could be utilized to perpetrate fraud and chicanery. If it were thus, then no stigma would attach to a claim based solely on a narrow and literal reading of a statutory prescription, devoid of any shadow of moral right. That is not the juridical norm as recognized by this Court. Deceit is not to be countenanced; duplicity is not to be rewarded. Witness the favor with which jurisprudence has looked on the action for reconveyance as well as the recognition of the constructive trust. There is thus the stress on rectitude.'"(Underline Ours)[12]

It is regrettable to say the least that the above pronouncements of this Court failed to impress respondent tribunal with the merits of petitioners' case.

(3) There are material facts to be inquired into and resolved on the basis of evidence adduced by the parties which will determine the legal precepts to be applied, among which are: (a) the circumstances which led to the issuance in 1950 of Original Certificate of Title RO-1496, a reconstituted title of a supposed Original Certificate of Title No. 23257 allegedly issued on December 12, 1940, pursuant to a decree of registration No. 732588 dated November 5, 1940, which was claimed to have been lost; (b) explanation, if any, for the inaction of the alleged registered owner Indalecio Frial and of his heirs for a period of 30 years to take possession of the

land in question thereby permitting Felipa Faja to cultivate and receive for herself the income from the produce of the land which as estimated by now respondent Frial amounted to around P150,000.00 for the entire period; and (c) the claim of ownership and possession of Felipa Faja and her predecessors-in-interest which allegedly date as far back as 60 years prior to the filing of Friars complaint in 1975, and her assertions of fraud and misrepresentation committed by Indalecio Frial in registering the property in his name. All these matters cannot simply be summarily disposed of in favor of respondent Frial and adversely against petitioners without evidence adduced on their conflicting claims.[13]

In conclusion, We state that while this Court desires to give full encouragement to trial courts to take advantage of and apply the provisions of the Rules of Court on summary judgment as valuable aids to an expeditious disposition of cases, We cannot but reiterate what was said and held in *Constantino vs. Hon. Estenzo, et al.* L-40403, July 31, 1975, and reiterated in *Auman et al. vs. Hon. Estenzo, et al.* L-40500, February 27, 1976, to wit:

“x x x The demands of a fair, impartial, and wise administration of justice call for a faithful adherence to legal precepts on procedure which ensure to litigants the opportunity to present their evidence and secure a ruling on all the issues presented in their respective pleadings. 'Shortcuts' in judicial processes are to be avoided where they impede rather than promote a judicious dispensation of justice.”

Again, in *Gregorio Lorenzo and Felisa Lavilla vs. The Hon. Numeriano G. Estenzo, et al.*, L-43306, October 29, 1976, this Court set aside a summary judgment rendered by respondent Judge Estenzo of the Court of First Instance of Iloilo, reiterating the rule that summary judgment can only be entertained where there are no questions of fact in issue or where the material allegations of the pleadings are not disputed.[14]

IN VIEW OF THE FOREGOING, the appealed decision of the Court of Appeals and the disputed Order of the trial court rendering summary judgment in favor of respondent Levine Frial are hereby set aside, and the Presiding Judge of Branch III, Court of First Instance of Capi, is directed to proceed with the trial on the merits of Civil Case No. M-355. With costs against private respondent Levine Frial.

So Ordered.

Makasiar, Concepcion, Jr., and Martin, JJ., concur.

Teehankee, J., (Chairman), concurs and adds brief remarks in a separate opinion.

[1] Revised Rules of Court, Rule 34, Summary Judgments ?

"Sec. 3. Motion and proceedings thereon. - The motion shall be served at least ten (10) days before the time specified for the hearing. The adverse party prior to the day of hearing may serve opposing affidavits. After the hearing, the judgment sought shall be rendered forthwith if the pleadings, depositions, and admissions on file together with the affidavits, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

[2] pp. 19-26, rollo

[3] pp. 27-31, *ibid.*

[4] p. 32, *ibid.*

[5] p. 34, *ibid.*

[6] pp. 39-44, *ibid.*

[7] pp. 46-50, *ibid.*

[8] p. 53, *ibid.*

[9] p. 77, *ibid.* The Eighth Division was composed of Justices Emilio A. Gancayco, Mama D. Busran, and Samuel F. Reyes.

[10] *Sapto, et al. vs. Fabiana*, per J.B.L. Reyes, J., (1958), 103 Phil. 683, 687, citing 44 Am. Jur. p. 47; *Cooper vs. Rhea*, 39 L.R.A. 930; *Inland Empire Land Co. vs. Grant County*, 138 Wash. 439, 245, Pac. 14.

[11] 44 Am. Jur. p. 47, cited in *Sapto, et al. vs. Fabiana*, *supra*, p. 687.

[12] See also *Philippine Commercial & Industrial Bank vs. Villalva*, *supra.*, p 39.

[13] See also *Gatchalian vs. Pavilin, et al.*, per J.B.L. Reyes, J., 116 Phil. 819.

[14] See also *Efrenca Tamo vs. Hon. Leopoldo B. Gironella, et al.*, L-41714, October 29, 1976

150 Clean 6 pt 6 pt 0 3 MicrosoftInternetExplorer4 /* Style Definitions */ table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0; mso-style-noshow:yes; mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin:0in; mso-para-margin-bottom:.0001pt; mso-pagination:widow-orphan; font-size:10.0pt; font-family:"Times New Roman";}

CONCURRING OPINION

TEEHANKEE, J.:

I fully concur and wish only to stress that given the circumstances that petitioner Felipa Faja had been admittedly in possession of the property prior to the filing of respondent's complaint for 30 years and according to petitioners that their peaceful, continuous adverse possession in the concept of owner had run for over 60 years, during which time they had declared the same and religiously paid the taxes thereon; that respondent and his predecessors allegedly did not possess the property for a single moment; that respondent allegedly obtained title to the property through fraud, deceit and misrepresentation and without the required personal notice on petitioners as actual occupants; the very prescription and/or laches wrongfully sought to be applied by respondent court (to justify the summary judgment against petitioners) may be equally, if not with more reason, invoked by petitioners against respondent by virtue of the latter's failure to assert his alleged title against petitioners for 30 to 60 years.

Respondent court failed to appreciate that these are vital genuine issues of fact which would materially affect the outcome of the case and therefore gravely erred in ruling that "summary judgment is proper as there is no genuine issue as to any material fact."

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.