

FELICIANO VERGARA, PLAINTIFF AND APPELLANT, VS. CIRIACO VERGARA, DEFENDANT AND APPELLEE.

G. R. No. L-17524. May 18, 1962

Ponente: BARRERA, J.

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BARRERA, J.:

This is an appeal from the decision of the Court of First Instance of Pangasinan (in Civil Case No. 13803) directly interposed to this Court by therein plaintiff, on the sole question of whether under the facts of the case as found by the lower court, his claim for reconveyance of his share in the land in controversy is already barred by laches.

As stated by the lower court in the decision appealed from, the facts of the case are:

"From the evidence presented by the parties in this case it is undisputed that the land in question forms part of a bigger portion of the land for which a certificate of title was issued in the name of the plaintiff and the defendant, exh. 'A'; that the land described and covered by Original Certificate of Title No. 53147 in the office of the Register of Deeds of Pangasinan, exh. 'A' was originally of the father of the parties, Martin Vergara; that it was the father who applied for the registration of the parcel of land described in exh. 'A', placing as co-owner the plaintiff and defendant in this case; that on December 12, 1936, a portion of land described in exh. 'A', with an area of 69,829 square meters was sold to one Maxima Bancod; that as a consequence of the sale of a portion of the land to Maxima Bancod, a sub-division plan was prepared and that a Transfer Certificate of Title in the name of Maxima Bancod was issued for the portion sold to her; that on May 19, 1956, an affidavit of confirmation of sub-division was executed by the defendant, Ciriaco Vergara and the vendee, Maxima Bancod, and as a result of this affidavit of confirmation, exh. 'C', a Transfer Certificate of Title over the land in question was issued in the name of the defendant Ciriaco Vergara; that on December 12, 1936, Ciriaco Vergara declared the portion in question in his name, exh. '1'; and said declaration was later revised in 1951 in the name again of Ciriaco Vergara, exh. '1-A' and '1-B'; that Ciriaco Vergara has been paying the taxes over the land in question from 1927 up to the present time, exhs. '5', '5-A' to '5-1'.

"The plaintiff relies on the Original Certificate of Title exh. 'A' as the basis of his complaint and on the affidavit of confirmation of sub-division, exhs. 'A' and 'C'. The defendant on the other band, has tried to prove thru oral evidence that at the time the deed of sale, exh. 'B' was executed the whole consideration mentioned in said sale was given to the plaintiff, Feliciano Vergara; that Feliciano Vergara agreed that the portion not sold of the land covered by Exh. 'A' should then remain with Ciriaco Vergara; and that the defendant reluctantly agreed to sign the deed of sale and only consented to do so after the plaintiff had agreed to recognize him as the sole owner of the unsold portion of the land.

"The evidence in support of the contention of the defendant is so detailed that from this alone, this Court does not feel convinced on the sincerity of the witnesses nor on the truthfulness of their declarations. This Court cannot believe the testimony of the notary public because a notary public in the ordinary course of his position would not inquire into minor details.

"What really happened in this case is that the father of the parties Martin Vergara, who was then living, was the one who caused the sale of the portion of the land covered by exh. 'A' to Maxima Bancod and it was he

who received the consideration. This Court is inclined to believe the testimony of the plaintiff that he did not know that what he was signing then was a deed of sale of the land covered by exh. '1'; that he only signed the same because he obeyed what his father told him. In fact, this Court believes that the plaintiff did not even know that the land covered by exh. 'A' was registered in his name and that of his brother, the defendant. From his own declaration it can be conclusively inferred that never until a short time before the filing of the complaint did he know that the land covered by exh. 'A' was registered in his name and that of his brother; nor did he know that a portion not yet sold and covered, by exh. 'D' is registered in the name of Ciriaco Vergara. And his ignorance is due to the fact that he has been a long resident of the City of Manila. * * *.

The court a quo, then, making further finding that defendant had been in continuous possession of the property since 1918, and with plaintiff a permission at least from 1937, held that the latter is now estopped from claiming his share in the remaining portion of the property, covered by TCT No. 23768 (Exh. D), for having slept on his right for around 20 years. In support thereof, the trial Judge cited the case of *Lucas vs. Gamponia* 100 Phil., 277; 53 Off. Gaz., 677 wherein it was held that the title of a registered owner may be defeated by the equitable defense of laches.

Under the facts of this case, as heretofore quoted, the aforecited doctrine laid down in the *Lucas* case would not apply. As therein stated, for the equitable defense of laches to be availed of as against the right of a registered owner, four elements must necessarily concur: viz., (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which the complaint is made and for which the complaint is made and for which it seeks a remedy; (2) 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; (3) 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 (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.[1]

The first element, clearly, is present, because the obtaining by defendant of a certificate of title in his own name, over the property belonging to him and his brother, gave rise to the filing of the complaint in this case. The second requisite, however, is not satisfied. As found by the lower court, which is here binding, plaintiff had no knowledge of the registration in his name and that of his brother of the land in question, having been a resident of Manila for a long time. The delay in asserting his right, occasioned by such lack of knowledge of the existence thereof, can not give rise to the defense of laches. The third element is also wanting in this case. For, whereas it is necessary that defendant, who should set up this defense of estoppel, has no knowledge or notice that complainant would assert the right on which the suit is based, this can not be said of defendant Ciriaco Vergara. Having known that the property was originally titled in his name and that of his brother's, and notwithstanding which he still secured a certificate of title only in his own name by signing the affidavit (for confirmation of subdivision) "for himself and in behalf of his co-owner Feliciano Verga", without the latter's consent, defendant should naturally anticipate the filing of the instant action. The fourth element is not also present, because an adjudication of plaintiff's right to one-half of the property will not actually prejudice the defendant who never owned the same.

In the circumstances, the action for reconveyance by plaintiff, to recover his lawful share of the property, is proper. The facts, however, do not clearly establish sufficient basis to adjudicate moral damages and attorney's fees to herein plaintiff-appellant.

Wherefore, the decision appealed from is hereby reversed and one entered herein sentencing the defendant to execute, within 10 days after this decision shall have become final, an appropriate deed of conveyance of one-half of the property in question in favor of the plaintiff. In case of defendant's failure to do so, let the Provincial Sheriff of Pangasinan execute the corresponding deed in accordance with Section 10 of Rule 39 of the Rules of Court. Appellee shall pay the costs. So ordered.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Paredes and Dizon, JJ., concur.

[1] Go Chin Gun, et al. vs. Co Cho, et al., 96 Phil., 622.

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