

**CHACON ENTERPRISES, PETITIONER, VS. THE COURT OF APPEALS
(NOW INTERMEDIATE APPELLATE COURT), FLORENTINO
GALASINO, FRANCISCO GALLARDO, PORFERIO CABACUNGAN,
BERNARDINO BAJULO, ET ...**

G.R. Nos. L-46418-19. September 29, 1983

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is a petition to review the decision of the Court of Appeals in CA-G. R. No. 50336-R and CA-G.R. No. 50337-R which reversed the decision of the Court of First Instance of Misamis Oriental, Branch III, in Civil Cases Nos. 3171 and 3218.

The background facts as stated in the decision of respondent court are as follows:

"The evidence discloses that on March 31, 1932, Ramon Chacon was granted a Fishpond Lease Agreement by the Director of Forestry to construct and maintain a fishpond over a mangrove swamp with an area of 15 hectares, situated in Barrio Lapasan, Municipality of Cagayan, Oriental Misamis, bounded on the 'North by Bitanag Creek; on the South by cultivated land; and on the East and West by Bitanag Creek and cultivated land' (Exhibits D, 9-BL).

"Ramon Chacon developed the area into a fishpond, clearing its shrubby growths and enclosing the same with perimetric dikes. Upon his death in 1947, his heirs, who succeeded him in the possession thereof, were issued a transfer ordinary fishpond permit dated March 29, 1951 (Exhibits 8-CH, 8-A-CH). Prior thereto, or on March 3, 1951, the said heirs entered into a partnership agreement, under the name Chacon Enterprises, for the purpose of acquiring title over the above-described fishpond (Exhibits 1, 14-BL). On July 19, 1951, the partnership applied for the purchase not only of the said 15-hectare fishpond but also of the adjoining eastern portion thereof with an area of about four hectares. The sales application alleged, among other things, that the area applied for had no indication of settlement, occupation or improvement, except the dikes and concrete gates owned by the heirs of Ramon Chacon (Exhibits 5, 11-BL and 11-A-BL). The sales application was thereafter referred to Perfecto Laput, Junior Lands Inspector of the Bureau of Lands, for inspection and report. The report he submitted, dated July 24, 1951, stated in effect that the 15-hectare fishpond, originally covered by the lease agreement in favor of Ramon Chacon and by the transfer ordinary fishpond permit in favor of his heirs, was developed and divided into blocks with permanent dikes and concrete gates (Exhibits 6, 12-BL). As the Bureau of Fisheries interposed no objection to the sales application of the Chacon Enterprises (see Exhibits H, 13-BL, and 13-A-BL), the Bureau of Lands, on March 24, 1955, issued an Order Award in favor of said partnership over an area of 19 hectares, 11 ares and 14 centares, bounded as follows: 'N - Bitanag Creek; E - private properties; S - private properties; W - Titang Creek' (Exhibit 7-CH); and on September 24, 1956, Chacon Enterprises was issued Original Certificate of Title No. P-47 (Exhibit 2-CH).

"Sometime in 1968, Chacon Enterprises filed in the City Court of Cagayan de Oro an ejectment suit against Florentino Galasino, Francisco Gallardo, Porfirio Cabacungan, Bernardino Bajulo, Rosita Pacardo, Josefa Pacardo and Isidro Pabuwan, who were then in actual possession of an area 43,792 square meters of the

eastern portion of the land covered by the aforesaid certificate of title. After due trial, the said court on December 19, 1968, dismissed the action holding that:

'From the evidence submitted during the trial of this case and in the ocular inspection made by this Court, It has been clearly shown that the defendants' houses constructed in the premises are already very old and in a dilapidated condition. This shows that defendants were staying and living in the premises for more than one year already.' (pp. 6-7, Record on Appeal).

"On January 8, 1969, Chacon Enterprises commenced Civil Case No. 3171 against the defendants Florentino Galasino, et al., to recover the possession of the said eastern portion, alleging that the latter, under claim of ownership, have succeeded in occupying certain portions of its registered land without the consent of the plaintiff; and that they refused to vacate the same, despite repeated demands.

"In their answer, the defendants assert absolute ownership over the said portion, stating that they inherited the same from Santiago Ebor, their deceased predecessor-in-interest, who had been in continuous, public and exclusive possession, as owner thereof, since time immemorial; that since the latter's demise, they have possessed the same continuously, openly and exclusively as owners thereof; that they have planted coconuts thereon, which are now fruit-bearing, in addition to those planted by their said predecessor-in-interest; and that the plaintiffs' certificate of title over the said land is null and void.

"On April 10, 1969, Florentino Galasino, et al., instituted Civil Case No. 3218 against Chacon Enterprises for annulment of Certificate of Title No. P-47 and/or reconveyance of the eastern portion of the appellee's titled land, outside of the circumferential dike of the fishpond.

"At the pre-trial, the parties agreed that the land in litigation has an area of 43,792 square meters and that the metes and bounds thereof are indicated with red lines in the sketch plan attached to the Commissioner's report (pp. 94-95, Record on Appeal).

"After joint trial, the court a quo rendered a decision, decreeing:

'1. In Civil Case No. 3218, dismissing plaintiffs' complaint with cost, and dissolving the writ of preliminary injunction issued on August 5, 1969.

'2. In Civil Case No. 3171, ordering the defendants and all those who have occupied and constructed houses on the area in question upon agreement with or with the permission of defendants, to vacate the areas in question and to surrender possession thereof to plaintiffs immediately upon the finality of this decision; declaring the writ of preliminary injunction issued on March 31, 1969 permanent; and ordering the defendants to pay the cost of this suit.'

"From the aforequoted judgment, Galasino, et al., appealed to this Court on twelve (12) assignments of error, which boil down to the basic issue of who, as between the appellee Chacon Enterprises and the appellants, has/have a better right and title over the disputed area of 43,792 square meters." [1]

Respondent Court of Appeals reversed the decision of the Court of First Instance, holding that the certificate of title in the name of Chacon Enterprises (OCT P-47) was null and void insofar as it covered the portion in litigation, and rendered judgment on December 10, 1976 as follows:

"(1) Dismissing the complaint in Civil Case No. 3171 and dissolving the writ of preliminary injunction issued therein; and

"(2) In Civil Case No. 3218, declaring the appellants owners of the disputed property and ordering the appellee to reconvey the same to the appellants." [2]

Chacon Enterprises filed a Motion for Reconsideration on the grounds that the action filed by private respondents

was barred by prescription and/or laches, and that the preponderance of evidence was clearly in its favor. Respondent appellate court, however, denied said Motion in an extended Resolution promulgated on June 16, 1977, holding that the action instituted by therein appellants, now private respondents, "albeit denominated as one for reconveyance is in essence an action to quiet title," which is imprescriptible.[3]

Assailing the foregoing judgment and resolution of the Court of Appeals, petitioner Chacon Enterprises now comes to this Tribunal contending in its Brief that respondent court erred:

1. In failing to apply prevailing Supreme Court doctrines on the prescriptibility of actions for annulment of title and/or reconveyance;
2. In holding that fraudulent misrepresentation tainted the procurement of the questioned title (OCT No. P-47) of the petitioner;
3. In denominating the cause of action of private respondents in Civil Case No. 3218 (CA-G.R. No. 50337-R) as an action to quiet title when in fact it was for annulment of title and/or reconveyance;
4. In holding that the petitioner had included in its application to purchase 19 hectares of land from the government "the adjoining eastern portion thereof, with an area of about four hectares;
5. In holding that the private respondents had established their possession of the land in litigation "since time immemorial" or that the evidence tilts in favor of the private respondents.

We shall take up the first and third assignments of error together. Anent the issue of prescription, petitioner calls attention to the fact that more than twelve (12) years had elapsed from the date its title was transcribed into the registration book of the Office of the Register of Deeds on September 24, 1956 up to the time private respondents filed Civil Case No. 3218 for annulment and/or reconveyance in the Court of First Instance on April 10, 1969. Citing the case of *De la Cerna, et al. vs. De la Cerna, et al.* (L-28838, August 31, 1976, 72 SCRA 514), petitioner contends that if private respondents anchor their action exclusively on the alleged fraud, their cause of action would have prescribed after four (4) years from September 24, 1956, or on September 25, 1960. On the other hand, if the supposed right of private respondents is based on implied or constructive trust, prescription would set in after ten (10) years from registration of its title, in accordance with the ruling of this Court in *Carantes vs. Court of Appeals, et al.* (L-33360, April 25, 1977, 76 SCRA 514). In either case, petitioner concludes, the action brought by private respondents shall have been barred by prescription.

Private respondents counter that while their complaint in Civil Case No. 3218 was for "annulment of title and/or reconveyance," their real cause of action was for quieting of title, and that prescription does not lie in actions for quieting of title, in effect reiterating the holding of respondent Court of Appeals in its Resolution of June 16, 1977 denying herein petitioner's Motion for Reconsideration.

We find the cases cited by petitioner to be inapplicable, and hold in favor of private respondents. This Tribunal has declared it a well-settled rule that "it is not the caption of the pleading, but the allegations thereof that determines the nature of the action; that even without the prayer for a specific remedy, proper relief may nevertheless be granted by the court if the facts alleged in the complaint and the evidence introduced so warrant." [4] Although private respondents' complaint in Civil Case No. 3218 was captioned or denominated one for "Annulment of Title and/or Reconveyance," the averments therein of lawful ownership and actual possession by therein plaintiffs since time immemorial of the parcel of land in question by themselves and through their predecessors-in-interest, residing and planting coconuts thereon and enjoying the fruits thereof, and that therein defendant secured a certificate of title over said property through fraud, misrepresentation and deceit, constitute a cause of action for quieting of title or removal of a cloud over such title, and sufficiently informed the defendant, now herein petitioner, of the nature of the plaintiffs' claim and enabled it to prepare for its defense.

In point is the case of Sapto, et al. vs. Fabiana[5] wherein this Court held that "(a) ctually the action for conveyance was one to quiet title, i.e., to remove the cloud case upon appellee's ownership x x x." [6] As to the prescriptibility of actions to quiet title, the Court had this to say:

"x x x it is an established rule of American jurisprudence (made applicable in this jurisdiction by Art. 480 of the New Civil Code) that actions to quiet title to property in the possession of the plaintiff are imprescriptible (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).

"The prevailing rule is that the right of a plaintiff to have his title to land quieted, as against one who is asserting some adverse claim or lien thereon, is not barred while the plaintiff or his grantors remain in actual possession of the land, claiming to be owners thereof, the reason for this rule being that while the owner in fee continues liable to an action, proceeding, or suit upon the adverse claim, he has a continuing right to the aid of a court of equity to ascertain d determine the nature of such claim and its effect on his title, or to assert any superior equity in his favor. He may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right. But the rule that the statute of limitations is not available as a defense to an action to remove a cloud from title can only be invoked by a complaint when he is in possession. One who claim property which is in the possession of another must, it seems, invoke his remedy within the statutory period." (44 Am. Jur., p. 47)."[7]

The Sapto ruling was cited in the later case of Gallar vs. Husain, et al. (L-20954, May 24, 1967, 20 SCRA 186). In Gallar, while the suit filed in the lower court was one to compel therein defendants to execute a deed of conveyance in favor of the plaintiff, this Court said that the action "seeks to quiet title, to remove the cloud cast on appellee's ownership" and "as plaintiff-appellee is in possession of the land, the action is imprescriptible." More recently, the Sapto case was again reiterated in Faja vs. Court of Appeals, et al. (L-45045, February 28, 1977, 75 SCRA 441) wherein We stated thus: "There is settled jurisprudence that one who is in actual possession of a piece of land claiming to be the 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."

That herein private respondents were indeed in actual and physical possession of the land in dispute at the time they filed Civil Case No. 3218 against petitioner on April 10, 1969 can be deduced from the fact that the latter had earlier filed an ejectment suit in 1968 and an action to recover possession (Civil Case No. 3171) on January 9, 1969, against private respondents over the same property. As correctly pointed out by private respondents, the filing of the said cases is tantamount to an admission on the part of petitioner that it was not in material possession of the land in question. Parenthetically, it may also be added that the 1968 ejectment suit was dismissed after trial by the City Court of Cagayan de Oro with a finding that herein private respondents had been "staying and living in the premises for more than one year already."

Basically, the cases above-cited, viz: Sapto, et al. vs. Fabiana, supra, Gallar vs. Husain, et al., supra, and Faja vs. Court of Appeals, et al., supra are squarely on all fours with the petition at bar, all the parcels of land involved being titled under the Torrens System and the claimants thereto in actual occupation and possession of the properties. Thus, in the Sapto case, the land in question with TCT No. T-5701 (O-28) was sold in 1931 but the action for reconveyance was filed October 19, 1954, or after 23 years. In the Gallar case, the land identified as Lot No. 766 of the cadastral survey of Cabatuan, Iloilo, and covered by Original Certificate of Title No. 4521 of the Register of Deeds of Iloilo was sold on January 9, 1919 under pacto de retro while the action to compel reconveyance was filed October 10, 1960 or after 41 years. And in the Faja case, the land was titled December 12, 1940 under OCT No. 23257 and reconstituted in 1950 under OCT No. RO-1496, identified as Lot No. 4010 of the

cadastral survey of Dumalag, Capiz, while the complaint for recovery of possession and damages was filed on April 15, 1975, whereas defendant had been in actual possession of the land through inheritance since 1945, or for a period of 30 years and was served the copy of the complaint only in 1975 and thus, her counterclaim for the cancellation of the certificate of title and in lieu thereof, a transfer certificate of title be issued to her was filed well within the statutory period.

Neither can petitioners successfully invoke the equitable doctrine of laches against herein private respondents. In *Perez, et al. vs. Ong Chua, et al.*,^[8] We had occasion to stress the four elements of laches, namely: (1) 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 complainant seeks 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.^[9] The second requisite is absent in the case at bar. While OCT No. P-47 was issued to petitioner in 1956, nothing in the facts as found by the Court of Appeals indicates that private respondents knew of petitioner's title prior to 1968 when a suit for ejectment was filed against them, which action was eventually dismissed because the old and dilapidated condition of their houses showed that they had been staying and living in the premises for more than one year already. Instead, records will show that private respondents lost no time in asserting their rights by filing, in April of the following year, a case contesting the validity of the title obtained by petitioner. In other words, there was no long inaction or inexcusable neglect on the part of private respondents which would bar them from seeking to enforce their rights.^[10]

This brings Us to the fifth error assigned by petitioner, which has reference to the finding of respondent court that private respondents had established their possession of the subject property "since time immemorial." Again, We hold in favor of private respondents. In the first place, the issue raised is factual, and therefore beyond Our power to review. It has been held in a long string of cases that as a general rule, findings of fact of the Court of Appeals are deemed final, conclusive, and binding on this Court.^[11] Secondly, it appears that the disputed finding or respondent court is duly supported by the evidence. The Decision under review states:

"x x x The appellants' evidence has amply shown that since time immemorial, their predecessor Santiago Eborá had been in possession of the disputed area which adjoins the eastern boundary of the appellee's 15-hectare fishpond; that Santiago Eborá had built his house, planted coconut trees and nipa palms thereon; that he had converted a portion thereof into a salt bed; and that after his demise in 1920, his children and grandchildren succeeded to the possession of the land in question erecting their houses and planting coconut trees thereon.

"The record reveals that on February 28, 1969, the trial court appointed a commissioner to conduct an inspection and relocation survey of the property involved; and the report submitted by the said Commissioner to the Court shows that the appellants' houses had been 'built for so many years' on the land in question; and that 'on the North-East x x x 8 coconuts can be found, approximately 2 to 6 years old,' that 'on the South-East and South-West portion x x x 28 coconuts can be found x x x ranging from 20-30 years old x x x, and that on the North-West portion x x x, 2 coconut trees about 30-40 years old can be found x x x' (Commissioner's Report dated March 15, 1969, p. 27, Original Record). Needless to state, these findings of the Commissioner strongly corroborate the anterior possession of the appellants and their ancestor, Santiago Eborá.

x x x

"x x x the evidence is incontrovertible that the possession of appellants and their predecessor-in-interest Santiago Eborá, which dates back long before the death of the latter in 1920, has been continuous, peaceful, adverse and in the concept of owners."^[12]

Petitioner next makes capital of the fact that private respondents failed to produce any tax declaration or tax receipt to substantiate their claim. While the documents mentioned constitute evidence of great weight to prove ownership, the same are not indispensable proof of title to real property. Testimonial as well as other evidence may be sufficient, as in the instant case.

We likewise affirm the finding of the respondent court that petitioner committed fraudulent misrepresentation in the procurement of OCT P-47, thus giving grounds for the cancellation of said title under Section 91 of Commonwealth Act No. 141, as amended. It is not controverted that in its sales application dated July 19, 1951 which was eventually made the basis of the questioned Torrens title, petitioner stated that "the area applied for had no indication of settlement, occupation or improvement, except the dikes and concrete gates owned by the heirs of Ramon Chacon" (see statement of facts by the Court of Appeals, *supra*). The falsity of this self-serving assertion is patent in the light of evidence correctly considered and relied upon by respondent appellate court to show, as mentioned earlier, that private respondents and their predecessor-in-interest had been in actual possession of the disputed 4-hectare portion of the land applied for since time immemorial, and that coconut trees of up to 40 years old had been found in the subject premises in 1969 by the Commissioner appointed by the trial court to conduct an ocular inspection. In addition, the Court of Appeals took into account the report filed by the Director of Lands with the Court of First Instance after conducting his own ocular survey of the controverted land upon orders of the trial court, which stated that "misrepresentation of facts (was) glaringly committed by the erstwhile applicant, now patentee, Chacon Enterprises x x x." [13] Suffice it to say that the findings of the trial court Commissioner and the Director of Lands are entitled to great respect by the courts.

In view of the foregoing, Commonwealth Act No. 141, as amended, otherwise known as the Public Land Act, is clearly applicable. It provides as follows:

"Sec. 91. The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and any false statement therein or omission of facts altering, changing, or modifying the consideration of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall ipso facto produce the cancellation of the concession, title, or permit granted. It shall be the duty of the Director of Lands, from time to time and whenever he may deem it advisable, to make the necessary investigations for the purpose of ascertaining whether the material facts set out in the application are true, or whether they continue to exist and are maintained and preserved in good faith, and for the purposes of such investigation, the Director of Lands is hereby empowered to issue subpoenas and subpoenas duces tecum and, if necessary, to obtain compulsory process from the courts. In every investigation made in accordance with this section, the existence of bad faith, fraud, concealment, or fraudulent and illegal modification of essential facts shall be presumed if the grantee or possessor of the land shall refuse or fail to obey a subpoena or subpoena duces tecum lawfully issued by the Director of Lands or his authorized delegates or agents, or shall refuse or fail to give direct and specific answers to pertinent questions, and on the basis of such presumption, an order of cancellation may issue without further proceedings." (Underscoring supplied.)

We find no merit in the contention of petitioner that the foregoing provision applies only to cases where the land covered by the questioned title is still under the supervision of the Director of Lands. Section 91 is unconditional. It presupposes that a concession, title or permit has already been granted on the basis of an application previously filed, thus it contemplates or covers a situation such as that obtaining in the case at bar wherein a title has already been granted pursuant to a sales application. The subject provision is clearly intended to ensure that applicants under the Public Land Act, whether for homestead, sale, lease or free patent, or for judicial confirmation of imperfect or incomplete title, state only the truth in their respective applications, especially with regard to material facts. For this purpose, the last two sentences of Section 91 provide for the procedure by which the government, through the Director of Lands, may discover or determine the truth of the essential facts set forth in the

application, and whether such facts continue to exist and are maintained and preserved in good faith. In this connection, it is important to note that Section 90(g) of the same Act specifically requires the applicant to state under oath "whether the land (applied for) is not occupied, improved, or cultivated either entirely or partially, and there are no indications of it having ever been occupied, improved, or cultivated x x x." Section 111 of the law further provides that "(a)ll persons receiving title to lands under the provisions of this Act shall hold such lands subject to the provisions hereof x x x."

The remaining error assigned by petitioner again involves a question of fact which We are not disposed to discuss at length. It raises the issue as to the location of the litigated property, that is, whether it is on the western part of the 19-hectare parcel of land applied for and titled in the name of petitioner and, therefore, had allegedly always been part of Ramon Chacon's fishpond, or on the "adjoining eastern portion" as found by respondent Court of Appeals. We have no doubt that the exact location of the disputed area had already been established in the trial court. We note from the decision of said court that upon joint petition of the parties, commissioners representing herein petitioner and private respondents were appointed, inter alia, "to determine and delineate the area presently occupied by the defendants and some other persons in relation to the technical description of OCT P-47." [14] After conducting an ocular inspection, the commissioners thus chosen submitted a report with an accompanying sketch plan which obviously showed the location of the parcel of land in litigation in relation to adjoining properties. Again, We quote from the decision of the Court of Appeals that "(a)t the pre-trial, the parties agreed that the land in litigation has an area of 43,792 square meters and that the metes and bounds thereof are indicated with red lines in the sketch plan attached to the Commissioner's report (pp. 94-95, Record on Appeal). [15] Petitioner does not even allege that at any time thereafter, it questioned the aforesaid sketch plan.

WHEREFORE, in view of all the foregoing, the judgment appealed from is hereby affirmed in toto. No costs.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., and Abad Santos, JJ., concur.

Aquino, J., in the result.

De Castro, J., on leave.

Escolin, J., no part.

[1] Decision of the Court of Appeals, pp. 1-6; Rollo, pp. 43-48; Third Division, Escolin, J., ponente, Vasquez and de la Fuente, JJ., concurring.

[2] Ibid., p. 13; Rollo, p. 55.

[3] Resolution of the Court of Appeals dated June 16, 1977; Rollo, pp. 78-80.

[4] Ras vs. Sua, L-23302, September 25, 1968, 25 SCRA 153, 158-159, citing People vs. Matondo, February 24, 1961; Cajefe vs. Fernandez, October 19, 1960; Rosales vs. Reyes, 25 Phil. 495; Yanez de Baranueva vs. Fuster, 29 Phil. 606; Cabigao vs. Lim, 50 Phil. 844.

[5] 103 Phil. 683.

[6] Ibid., p. 686.

[7] Ibid., pp. 686-687; underscoring supplied.

[8] L-36850, September 23, 1982, 116 SCRA 732, citing Go Chi Gun, et al. vs. Co Cho, et al., 96 Phil. 622.

[9] Ibid., p. 737.

[10] Sotto vs. Teves, et al., L-38018, October 31, 1978, 86 SCRA 154, 183, citing Tijam vs. Sibonghanoy, 23 SCRA 29; Municipality of Carcar vs. Court of First Instance of Cebu, et al., L-31628, December 27, 1982, 119 SCRA 392, 395-396.

[11] See Borlas vs. Court of Appeals, et al., 114 SCRA 254, 257; Magpantay vs. Court of Appeals, et al., 116 SCRA 236, 239; Tongoy vs. Court of Appeals, et al., L-45645, June 28, 1983

[12] Decision of the Court of Appeals, pp. 7-8 and 11; Rollo, pp. 49-50 and 53.

[13] Decision of the Court of Appeals, p. 8; Rollo, p. 50.

[14] Record on Appeal in the Court of Appeals, pp. 137-138; Rollo, p. 82.

[15] Decision of the Court of Appeals, pp. 5-6; Rollo, pp. 47-48.

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