

**HEIRS OF PASTORA T. CARDENAS AND EUSTAQUIO CARDENAS,  
NAMELY: REMEDIOS CARDENAS-TUMLOS, REPRESENTED BY HER  
ATTORNEY-IN-FACT, JANET TUMLOS-QUIZON,  
PLAINTIFF-APPELLANT, VS. THE CHR...**

Ponente: INTING, J.

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**INTING, J.:**

Before Us on appeal is the Decision[1] dated June 6, 2012 of the Regional Trial Court of Midsayap, Cotabato, Branch 24, rendered in Civil Case No. 09-033, which is a Complaint for Recovery of Possession and Use of Real Property and Damages.

The facts[2] of the case are as follows:

On October 26, 2009, plaintiff-appellant Remedios Cardenas-Tumlos, heir of Pastora T. Cardenas and Eustaquio Cardenas, represented by her attorney-in-fact, Janet Tumlos-Quizon (Janet), filed a Complaint[3] for Recovery of Possession and Use of Real Property and Damages against defendants-appellees The Christian and Missionary Alliance Churches of the Philippines, Inc. (CAMACOP), Reo Repollo and Leocadio Duque, Jr. before the Regional Trial Court (RTC) of Midsayap, Cotabato, Branch 24, docketed as Civil Case No. 09-033.

Janet is the daughter of Remedios Cardenas-Tumlos (Remedios), a widow and a resident of 610 Winthrop Avenue, Glendale Heights, Illinois 601239, United States of America (USA).[4]

CAMACOP is a religious corporation, organized and existing pursuant to the existing laws of the Republic of the Philippines. It is represented by Reo Repollo and Leocadio Duque, Jr.[5]

In her Complaint, Janet alleged that her mother Remedios is the heir of the late Pastora T. Cardenas and Eustaquio Cardenas (Cardenas), who are the registered owners of Lot 90, Psd-37322, with an area of 410 square meters, located at Poblacion 6, Midsayap, Cotabato, covered by Transfer Certificate of Title (TCT) No. T-6097 and Tax Declaration No. K-019938 with a Market Value of P550,220.00;[6] and that the subject property is adjacent to Lot 3924-A, Psd-12-013791 owned by CAMACOP where its church is located and constructed.[7]

Janet further alleged that sometime in the year 1962, CAMACOP unlawfully occupied the subject property for their church activities and functions; that CAMACOP continues to unlawfully occupy the subject property to the damage and prejudice of plaintiff-appellant;[8] that their repeated oral and written demands fell on deaf ears; and that CAMACOP failed to accede to the demands and continues to occupy the subject property.[9] Thus, her mother Remedios, through her, was constrained to file the case before the court a quo.

For their part, defendants-appellees admitted in their Answer[10] that CARDENAS is the registered owner of the subject property, which is adjacent to Lot No. 3924-A, Psd-12-013791 owned by the CAMACOP. They further aver in their Answer that their occupation of the subject property is not illegal since they had lawfully purchased it from its registered owners, who surrendered the owner's duplicate copy to the representative of the church.[11]

Defendants-appellees alleged that on May 31, 1962, Atty. Rodolfo T. Calud, counsel and representative of CAMACOP, sent the owner's duplicate copy of the subject property to the Secretary of Agriculture and Natural Resources and four (4) copies of the Deed of Sale, signed by the registered owners, for the Secretary's prior approval, pursuant to Commonwealth Act (C.A.) 141.[12] They further asseverate that their continued occupation of the subject property for a period of forty-seven (47) years had reduced the claim as barred by prescription and the inaction of the plaintiff-appellee for such period of time had rendered their claim as a stale demand which is barred by laches.[13]

After the pre-trial conference, trial ensued.

On November 22, 2010, Janet testified before the court a quo that since the year 2000, she had made several demands to the defendants-appellees, through her counsel, to vacate the subject property; that she sent three demand letters to defendants-appellees; and that these letters were sent through registered mail on the following dates: July 21, 2009, August 14, 2009 and September 28, 2009.[14]

Janet further testified that her grandmother died on September 1972; that her grandmother never mentioned that she had sold the subject property during her lifetime;[15] that before the filing the case before the court a quo, she talked with the wife of defendant-appellee Reo Repollo to inquire as to why they are in possession of the subject property; and that the latter told her that she did not ask authority from anybody because she doesn't know who the real owner of the lot is.[16]

Janet also testified that she secured a real property tax clearance from the Municipal Treasurer of Midsayap, Cotabato.[17]

On cross-examination, Janet testified that she came to know that her grandparents owned the subject property in 1993; that she started paying realty taxes over the subject property in 2009;[18] that since 2000, she had spoken to the defendants-appellees and gave them ample time to produce the supposed Deed of Sale executed by her late grandparents in their favor; and that no deed of sale was ever produced by the defendants-appellees.[19]

Janet further testified that the Owner's Duplicate Copy of the TCT is with her mother; and that her mother could not send her the copy because it is in a vault and that the vault could not be opened because her mother had lost the key.[20]

On February 21, 2011, defendant-appellee Reo Repollo (Reo), a member of CAMACOP since childhood, testified before the court a quo that in 1993, he became one of the elders of CAMACOP together with Maximo Gerodias and Judy Gupit;[21] that CAMACOP is the owner of the subject property; and that to bolster his claim, a letter dated May 31, 1962 which was sent by their counsel to the Hon. Secretary of Agriculture and Natural Resources, Manila was presented before the court a quo.[22]

Reo further testified that when he assumed his position as elder of the church in 1993, several documents were turned over to him, including documents pertaining to the alleged sale of the subject property; that as the elder, he is designated as custodian of the records of the church;[23] that several of these documents include letters written by one Atty. Rodolfo Calud, counsel for CAMACOP, and addressed to the Secretary of Agriculture and Natural Resources, Manila for the approval of the sale pursuant to the Public Land Act.[24]

Reo furthermore testified that when plaintiff-appellant started to claim ownership over the subject property, he went to visit Atty. Calud and asked him if he had a copy of the purported deed of sale; that at that time, since the latter was already very old and frail, it was his children who looked for the files pertinent to the sale of the subject property; that nevertheless, their efforts were an exercise in futility as they could not find a copy of the deed of sale in the files of Atty. Calud; and that apparently, the deed of sale and the duplicate owner's copy of the title

had been sent to the Secretary of Agriculture for the latter's approval of the sale.[25]

On April 25, 2011, Eudecia Repollo, 91 years old, widow, a resident of Poblacion 8, Midsayap, Cotabato and a long-time member of CAMACOP, testified before the court a quo that the land to which the church building is erected is owned by it; that the first portion of the land was donated by a Mr. Pascual Cocal which is about 200 square meters while the remaining portion of the land was purchased by CAMACOP from Pastora Cardenas; that the subject property was purchased sometime in the 1960s;[26] and that at the time of the purchase of the subject property, she was the Secretary-Treasurer of CAMACOP and thus, was the one who gave the purchase price in the amount of P110.00 to Pastora Cardenas and P10.00 as attorney's fees to Atty. Rodolfo Calud, who made the Deed of Sale.[27]

Eudecia further testified that she personally witnessed Pastora sign in the Deed of Sale; and that thereafter, the Deed of Sale and the other documents pertaining to the sale were handed to Atty. Calud who was given full authority to process the documents for the transfer of the title in favor of CAMACOP.[28]

Finally, on January 20, 2012, Jerry S. Juarez testified before the court a quo that he is the resident pastor of CAMACOP; that he was first assigned as resident pastor on May 8, 1992 up to May 8, 1999, and again on August 2006 up to the present time;[29] that upon his assumption as resident pastor of CAMACOP, he requested for an inventory of the church properties from Eudecia Repollo, who was then the Property Custodian; that one of the papers which Eudecia turned over to him was the document pertaining to the sale of the subject property between Pastora Cardenas and CAMACOP;[30] and that after perusing the documents, he turned over the same to Reo Repollo, the elder of the church.[31]

Thereafter, on June 6, 2012, the court a quo rendered the assailed Decision dismissing the complaint for lack of merit.[32]

Undeterred, plaintiff-appellant elevated the case on appeal before this Court with the following issues:

I

THE LATE PASTORA T. CARDENAS WAS THE ABSOLUTE AND REGISTERED OWNER OF THE SUBJECT LOT 90, PSD-37322, SHEET 2, AND NOW BY THE APPELLANT;

II

THE HONORABLE LOWER COURT ERRED IN DECLARING AND RULING THAT APPELLEES HAD PURCHASED THE SUBJECT LOT 90;

III

THE HONORABLE LOWER COURT ERRED IN DISMISSING THE CASE; AND

IV

THE APPELLANT IS ENTITLED TO HER CLAIMS AND FOR DAMAGES. [33]

### Our Ruling

The appeal is bereft of merit.

Ei incumbit probatio qui dicit, non qui negat. "He who asserts, not he who denies, must prove." It is hornbook principle that he who alleges must prove his allegations.[34]

In the case at bar, plaintiff-appellant asserts that her grandmother did not sell the subject property to the

defendant-appellee church. She roots her claim on the fact that the title of the subject property is still in the name of her grandmother and that the defendant-appellee failed to present the Deed of Sale for the alleged transaction. She further argues that laches cannot apply in the case at bar since the defendant-appellee's possession was by mere tolerance.

The contentions of the plaintiff-appellant are specious at best.

It is not disputed that the title of the subject property is in the name of the late Pastora T. Cardenas and Eustaquio Cardenas. What is at the crux of the controversy is whether there was in fact a sale transaction between the late Spouses Cardenas and the church over the subject property. We rule in the affirmative.

It is interesting to note that the plaintiff-appellant claims ownership of the subject property as heir of the late spouses. However, she failed to produce an Owner's Duplicate Copy of the TCT. She reasons out that the duplicate copy is with her mother who is in the USA; and that the duplicate copy is locked in a vault and that her mother had lost her key to the vault. To the mind of this Court, the reason offered by plaintiff-appellant is dubious and incredible for he who alleges must prove his allegations.

Moreover, Janet, as the only daughter and heir of the late Remedios Cardenas-Tumlos who had a right over the subject property, did not transfer the title of the subject property in her name despite the passage of more than forty (40) years since the demise of her late parents.

What is evident in the case at bar is that the plaintiff-appellant did not have an owner's duplicate copy of the TCT and had to secure a certified true copy from the Register of Deeds. We must emphasize that she secured a copy of the TCT (in the name of her grandparents) from the Register of Deeds only on July 13, 2009.[35]

We agree with the court a quo that the contentions of the defendant-appellee prove to be more believable. To bolster its claim, it presented the following as evidence:

- Exhibit "1" – May 3, 1962 accompanying letter-transmittal of Atty. Rodolfo T. Calud, addressed to the Secretary of Agriculture and Natural Resources at Manila;
- Exhibit "2" – Sworn Affidavit of Rev. Leodegario G. Madrigal dated November 20, 1962;
- Exhibit "3" – May 6, 1963 letter of Rodolfo T. Calud addressed to the Secretary of the Department of Agriculture and Natural Resources;
- Exhibit "4" – July 23, 1963 letter of Rodolfo T. Calud, addressed to the Secretary of Agriculture and Natural Resources at Manila;
- Exhibit "5" – January 13, 1964 letter of Rodolfo T. Calud, addressed to the Secretary of Agriculture and Natural Resources;
- Exhibit "6" – March 2, 1964 letter of Aurora B. Marcos Assistant Chief Legal Officer for the Secretary of Agriculture and Natural Resources, addressed to the Director of Agriculture and Natural Resources at Manila;
- Exhibits "7" – May 19, 1964 letter of Rodolfo T. Calud, addressed to the Secretary of Agriculture and Natural Resources;
- Exhibit "8" – July 27, 1964 letter of Rodolfo T. Calud, addressed to the Editor of the Philippines Free Press;
- Exhibit "9" – November 21, 1966 letter of Rodolfo T. Calud, addressed to the Secretary of Agriculture and Natural Resources.
- Exhibit "10" – December 23, 1968 letter of Rodolfo T. Calud, addressed to the Secretary of Agriculture and Natural Resources;

- Exhibit “11” – December 2, 1999 letter of Reo M. Repollo, addressed to Rev. Ferdinand Pabrua, EUP-DAF.[36]

From the evidence presented, it can be deduced that after the sale transaction, the late Spouses Cardenas surrendered the duplicate owner's copy of the title of the subject property to the defendant-appellee's counsel; and that the latter forwarded it to the Secretary of Agriculture and Natural Resources for approval of the sale transaction pursuant to the Public Land Act.

Moreover, the Supreme Court has, on several occasions ruled that even a registered owner of a property may be barred from recovering possession of the same by virtue of laches.[37] In *Heirs of Panganiban v. Dayrit*, the Supreme Court discussed several cases wherein the principle of laches was applied against the registered owner:

In our jurisdiction, it is an enshrined rule that even a registered owner of property may be barred from recovering possession of property by virtue of laches. Thus, in the case of *Lola v. Court of Appeals*, this Court held that petitioners acquired title to the land owned by respondent by virtue of the equitable principles of laches due to respondent's failure to assert her claims and ownership for thirty-two (32) years. In *Miguel v. Catalino*, this Court said that appellant's passivity and inaction for more than thirty-four (34) years (1928-1962) justifies the defendant-appellee in setting up the equitable defense of laches in his behalf. Likewise, in the case of *Mejia de Lucas v. Gamponia*, we stated that while the defendant may not be considered as having acquired title by virtue of his and his predecessor's long continued possession for thirty-seven (37) years, the original owner's right to recover possession of the property and the title thereto from the defendant has, by the latter's long period of possession and by patentee's inaction and neglect, been converted into a stale demand.

Laches is the failure or neglect, for an unreasonable and unexplained length of time, to do that which by exerting due diligence could or should have been done earlier. The law serves those who are vigilant and diligent, and not those who sleep when the law requires them to act.[38] (*Italics supplied*)

Plaintiff-appellant admitted the fact that defendant-appellee has been in possession of the subject property since 1962. However, no formal action was taken by her except in 2009 when she sent demand letters to defendant-appellee.

Plaintiff-appellant likewise contends that the possession of defendant-appellee was merely tolerated by her late grandparents. However, such bare allegation was unsubstantiated.

For failure of plaintiff-appellant to prove her first and second assignment of errors, We find it unnecessary to discuss the third issue on claims and damages.

In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. Preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term “greater weight of the evidence” or “greater weight of the credible evidence.” Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto.[39]

In the case at bar, plaintiff-appellant failed to overcome the burden of proving her claim by preponderance of evidence. We find that the court a quo did not err in its appreciation of the evidence and in ruling that there was in fact a sale of the subject property by the late spouses in favor of the defendant-appellee. The failure of the plaintiff-appellant to prove her claim makes this appeal vulnerable to denial.

All things considered, preponderance of evidence tilts in favor of defendant-appellee.

WHEREFORE, the appeal is DENIED. The Decision dated June 6, 2012 of the Regional Trial Court of Midsayap, Cotabato, Branch 24, rendered in Civil Case No. 09-033 is AFFIRMED.

**SO ORDERED.**

[\*]Singh and Perez, JJ., concur.

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[\*] Designated New Member vice J. Camello who inhibited himself, per Raffle dated February 12, 2015.

[1] Penned by Hon. Lily Lydia Laquindanum; Rollo; pp. 38-50; Records, pp. 327-339.

[2] As culled from the records

[3] Records, pp. 1-16.

[4] Ibid.

[5] Ibid.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Records, pp. 25-41.

[11] Ibid.

[12] Also known as the Public Land Act.

[13] Ibid.

[14] TSN, November 22, 2010; pp. 1-93.

[15] Ibid.

[16] Ibid.

[17] Ibid.

[18] Ibid.

[19] Ibid.

[20] Ibid.

[21] TSN, February 21, 2011; pp. 94-219.

[22] Ibid.

[23] Ibid.

[24] Ibid.

[25] Ibid.

[26] TSN, April 25, 2011, pp. 220-264.

[27] Ibid.

[28] Ibid.

[29] TSN, February 20, 2012; pp. 265-294.

[30] Ibid.

[31] Ibid.

[32] See footnote 1.

[33] Rollo, pp. 22-23.

[34] *Boyboy v. Yabut*; A.C. No. 5225; April 29, 2003.

[35] Records, p. 10.

[36] *Supra*, pp. 58-68.

[37] *Ty v. Queen's Row Subdivision*; G.R. No. 173158; December 4, 2009.

[38] Ibid.

[39] *Chua v. Westmont Bank*; G.R. No. 182650; February 27, 2012.

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