

**MOISES CORDOVA, JUAN CORDOVA, CLEMENCIA C. VENTURA,
MARIANO CORDOVA, GLORIA C. BALUBAL, ROMEO CORDOVA AND
THE HEIRS OF FRANCISCO CORDOVA REPRESENTED BY
BUENAVENTURA CORDOVA, PET...**

Ponente: SORONGON, J.

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SORONGON, J.:

Assailed in this petition for review under Rule 42 of the Rules of Court is the Decision[1] dated March 30, 2011 of the Regional Trial Court (RTC) of Tuguegarao City, Branch 3, in Civil Case No. 7257, affirming the Decision dated January 8, 2009 of the 5[th] Municipal Circuit Trial Court (MCTC), Amulung-Iguig, Cagayan which dismissed petitioners' Complaint[2] for Rein vindication and Damages with Prayer for Preliminary Injunction.

In their complaint petitioners Moises Cordova, Juan Cordova, Clemencia C. Ventura, Mariano Cordova, Gloria C. Balubal, Romeo Cordova and heirs of Francisco Cordova, as represented by Buenaventura Cordova (petitioners), alleged that they are the absolute owners of a parcel of land located in Salamague, Iguig, Cagayan designated as Lot No. 3266, Pls-601-D with an area of 4,200 square meters for the motherland and an accretion of 15,540 square meters or a total of 19,740 square meters, more or less. This land used to belong to their grandfather, Mariano Cordova (Mariano) but following his death in 1939 his son Gonzalo who was the father of petitioners acquired it by intestate succession. When Gonzalo died on January 13, 1950, petitioners succeeded him to the rights, title and interest over the said land. Since the lifetime of their father, they were already in possession of the subject land. They cultivated it, introduced improvements thereon and paid its real property taxes. But in 1976, respondents through force and intimidation, evicted them and took possession of the accreted portion of the land and despite their repeated demands, respondents refused to vacate the same.

In their Answer with Counterclaim,[3] respondents denied petitioners' claim of ownership over the subject land. They did not oust petitioners therefrom. They inherited the said land from their father Leonardo Ballinan, Sr. (Leonardo, Sr.), who inherited it from his mother, Rufina Cordova (Rufina), married to Tomas Ballinan. Rufina and Gonzalo (father of petitioners) were siblings and both got their respective shares of inheritance from their father Mariano. The disputed land belongs to the share of their mother Rufina. In fact, they were in open, continuous, public, uninterrupted and notorious possession of the said land for more than fifty (50) years already. Even the house found therein was built by their grandparents which became their residence together with their father. They also introduced improvements and paid its real property taxes. In 1994 petitioners tried to enter the said land but when they realized that they were not the owners thereof, they voluntarily left.

During trial, petitioners presented Jose Ramos, Gloria Balubal, SPO2 Edgardo Mallo and Josefa Ballinan. Their combined testimonies showed that the subject land was inherited by petitioners from their father Gonzalo who inherited it from his father, Mariano. Gonzalo built a house, planted trees, corn and vegetables thereon. In 1976, respondents forcibly took possession of the land. The incident was reported to the police but no records thereof could be found because the police station was burned by the communist rebels on February 20, 1985. The land was declared for taxation purposes in their names under Tax Declaration Nos. 12697, 7513, 4286, 5980, 6627

pertaining to Cadastral Lot No. 3266, Tax Declarations No. 324 pertaining to Cadastral Lot No. 3266-A and paid the realty taxes due as evidenced by several tax receipts.

For the respondents, Carlos Erro, Damian Ballinan Balauitan and Emma Ballinan took the witness stand. They claimed that the land known as Cadastral Lot No. 3266-B is owned by Rufina Cordova. They were in possession and cultivation of the land for more than 50 years with Carlos Erro as the present tenant thereof. Since 1976 they succeeded each other in cultivating the said land including the accreted portion thereof. Sometime in 1993, Romeo Cordova, Rommel Cordova and Rito Cordova entered the land without their permission. They also declared the said land for taxation purposes under Tax Declaration Nos. 9816 and 15056 in the name of Rufina Cordova and also paid the realty taxes thereof.

On January 8, 2009, the MCTC rendered a decision in favor of respondents holding that petitioners failed to prove by substantial evidence their ownership over the disputed property. The case was also dismissed on the ground of laches. Thus:

"WHEREFORE, in the light of the foregoing considerations, the Court hereby orders the instant complaint DISMISSED on the ground of Laches and for failure of Plaintiffs to preponderantly establish its cause of action." [4]

On appeal, the RTC wrote finis to the case in this wise:

WHEREFORE, the instant appeal is hereby DISMISSED. The assailed Decision dated January 8, 2009 of the 5[th] Municipal Circuit Trial Court of Amulung-Iguig, in Civil Case No. 189 is AFFIRMED.

SO ORDERED.

Petitioner filed a motion for reconsideration which was denied by the RTC in its Resolution [5] dated July 15, 2011.

Hence, this recourse of petitioners based on the supposition that the RTC acted with grave abuse of discretion amounting to lack of jurisdiction in dismissing the complaint on the ground of laches.

Basic is the rule that the one who alleges a fact has the burden of proving it. [6] In civil cases, the party having the burden of proof must establish his case by preponderance of evidence. In *Heirs of Lim vs. Lim*: [7]

"Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." "Preponderance of evidence" is a phrase that, in the last analysis, means probability of the truth. It is evidence that is more convincing to the court as worthy of belief than that which is offered in opposition thereto.

Here, petitioners alleged that they are the rightful owners of the subject property and were in possession of the same until they were ousted by the respondents in 1976. To back up their claims, they presented the oral testimonies of their witnesses. To our mind these testimonies are self-serving that they failed to sufficiently establish their possession and cultivation of the land before their forced eviction therefrom by respondents in 1976. The certification from the Iguig Police Station stating that the police records of the Municipality of Iguig, Cagayan were burned in a fire on February 20, 1985 does not directly prove that there existed a police blotter on the alleged incident. Moreover, if petitioners indeed believe that they have a valid cause against respondents, reason and logic dictate that when they were ousted in 1976 they would have done something immediately to vindicate their right and/or to impose their claim over the subject property, i.e.: by simply going to their barangay, to the police or to the court. But petitioners had none of these. It took them all of 21 long years to be awakened and sought judicial action. Their submission of a tax declarations and tax receipts, will not advance their cause.

These documents are not conclusive proof of ownership.[8] In order to constitute evidence of greater weight and can be used as basis of ownership, tax declarations and tax receipts must be backed up by actual possession.[9]

On the contrary, to prove their actual possession and cultivation of the subject land, respondents presented their tenant Carlos Erro. They also presented a police blotter report that Romeo Cordova, Rommel Cordova and Rito Cordova forcibly entered the said property sometime in 1993 while being cultivated by Carlos Erro. As we have mentioned earlier, although tax declarations or tax receipts are not conclusive evidence of ownership, at least they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property.[10]

Thus, pitted against each other the claim of possession and ownership by respondents is worthy of belief and credence.

Now, on the submission that laches is not applicable in the present case because the land is unregistered. Such a stance has no basis. Though the well-known and established principle is that prescription and laches can not apply to registered land covered by the torrens system because under the Property Registration Decree, no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession,[11] there is, however, no prohibition on the acquisition of title through laches or prescription over unregistered land. Thus, the fact that the land is unregistered does not negate the applicability of the principle of laches.

We likewise affirm the ruling of the RTC that even assuming arguendo that petitioners were able to establish their ownership over the land, their right to recover possession from respondents is already barred by laches. In *Heirs of Panganiban vs. Dayrit*,[12] laches is defined as:

...the failure or neglect, for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have been done earlier, it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it. The defense of laches is an equitable one and does not concern itself with the character of the defendant's title but only with whether or not by reason of plaintiff's long inaction or inexcusable neglect, he should be barred from asserting his claim at all, because to allow him to do so would be inequitable and unjust to defendant.

As alleged, it was in 1976 that respondents evicted petitioners and forcibly took possession of the disputed land. However, it was only on September 24, 1997 or twenty-one (21) years after that petitioners were able to file their complaint of reivindicacion. Obviously, petitioners slept on their rights for more than two (2) decades before they were aroused from their deep stupor and decided to file a case for reconveyance of the subject property. For failing to file an action to recover possession thereof, petitioners' right to bring such action is indeed already time barred by the principle of laches. *Vigilantibus, sed non dormientibus, jura subveniunt*. The laws aid the vigilant, not those who slumber on their rights.[13] As pronounced in the case of *Claverias vs. Quingco*,[14] citing *Miguel vs. Catalino*,[15]

...Courts cannot look with favor at parties who, by their silence, delay and inaction, knowingly induce another to spend time, effort and expense in cultivating the land, paying taxes and making improvements thereon for 30 long years, only to spring from ambush and claim title when the possessor's efforts and the rise of the land values offer an opportunity to make easy profit at his expense.

Moreover, it should be stressed that laches is not concerned only with the mere lapse of time. To constitute laches, the following essential elements must also be present:

(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 for which the complaint 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.[16]

In this case, the first element is undisputed, respondents have possession of the subject property and refused to vacate it upon demand by petitioners. The second element is likewise attendant when petitioners filed the complaint for reconveyance on September 24, 1997 or after two (2) decades since respondents allegedly evicted them from the premises. As to the third element, respondents did not anticipate that their possession of the land would be later on questioned by petitioners. After more than 50 years of open, peaceful and uninterrupted possession from their predecessors-in-interest and coupled with the introduction of improvements thereon, tax declarations and payment of real property taxes, respondents have no knowledge nor reason to believe that petitioners would question their ownership or possession and assert a claim over the said property. Lastly, if the action of petitioners is not barred by laches, great prejudice or injury will be sustained not only by respondents but also their tenants considering the cost of improvements, payments of taxes and expenses they already incurred in the cultivation and preservation of the land.

In fine, there is no other way by which the RTC could have disposed of this case the way it did. Thus, we affirm.

WHEREFORE, the Decision of the Regional Trial Court of Tuguegarao City, Branch 3 dated March 30, 2011 in Civil Case No. 7257 is hereby AFFIRMED.

SO ORDERED.

Carandang, (Chairman), and Gonzales-Sison, JJ., concur.

[1] Rollo, pp. 24-31.

[2] Ibid, pp. 69-73, Civil Case No. 189.

[3] Ibid, pp. 76-81.

[4] Ibid, p. 31.

[5] Ibid, p. 117.

[6] Exodus International Construction Corp. vs. Biscocho, G.R. No. 166109, February 23, 2011 citing Machica vs. Roosevelt Services Center, Inc., G.R. No. 168664, May 4, 2006.

- [7] G.R. No. 172690, March 3, 2010.
- [8] Republic of the Philippines vs. Heirs of Doroteo Montoya, G.R. No. 195137, June 13, 2012.
- [9] Buenaventura vs. Republic of the Philippines, G.R. No. 166865, March 2, 2007.
- [10] Republic vs. CA, 328 Phil. 238.
- [11] Jakosalem vs. Barangan, G.R. No. 175025, February 15, 2012.
- [12] G.R. No. 151235, July 28, 2005.
- [13] Eduarte vs. CA, G.R. No. 121038, July 22, 1999.
- [14] G.R. No. 77744, March 6, 1992.
- [15] G.R. No. L-23072, November 29, 1968.
- [16] Heirs of Nieto vs. Municipality of Meycauayan, Bulacan, G.R. No. 150654, December 13, 2007.

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