

SULPICIA JIMENEZ AND TORIBIO MATIAS, PETITIONERS, VS. VICENTE FERNANDEZ ALIAS HOSPICIO FERNANDEZ AND TEODORA GRADO, RESPONDENTS.

G.R. NO. L-46364. April 06, 1990

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a petition for review on certiorari of the following Decision^[1] and Resolution² of the Honorable Court of Appeals: (1) Decision, dated March 1, 1977 in C.A.-G.R. No. 49178-R entitled "Sulpicio Jimenez, et al., v. Vicente Fernandez, et al." affirming in toto the judgment of the Court of First Instance of Pangasinan, Third Judicial District in Civil Case No. 14802-I between the same parties and (2) Resolution dated June 3, 1977 denying plaintiffs-appellants' motion for reconsideration.

As gathered from the records, the factual background of this case is as follows:

The land in question is the Eastern portion with an area of Four Hundred Thirty Six (436) square meters of that parcel of residential land situated in Barrio Dulig (now Magsaysay), Municipality of Labrador, Pangasinan actually covered by Transfer Certificate of Title No. 82275 (Exhibit A) issued in the name of Sulpicia Jimenez.

The entire parcel of land with an area of 2,932 square meters, formerly belonged to Fermin Jimenez. Fermin Jimenez has two (2) sons named Fortunato and Carlos Jimenez. This Fortunato Jimenez who predeceased his father has only one child, the petitioner Sulpicia Jimenez. After the death of Fermin Jimenez, the entire parcel of land was registered under Act 496 in the name of Carlos Jimenez and Sulpicia Jimenez (uncle and niece) in equal shares pro-indiviso. As a result of the registration case Original Certificate of Title No. 50933 (Exhibit 8) was issued on February 28, 1933, in the names of Carlos Jimenez and Sulpicia Jimenez, in equal shares pro-indiviso.

Carlos Jimenez died on July 9, 1936 and his illegitimate daughter, Melecia Cayabyab, also known as Melecia Jimenez, took possession of the eastern portion of the property consisting of 436 square meters.

On January 20, 1944, Melecia Jimenez sold said 436 square-meter-portion of the property to Edilberto Cagampan and defendant Teodora Grado executed a contract entitled "Exchange of Real Properties" whereby the former transferred said 436 square-meter-portion to the latter, who has been in occupation since.

On August 29, 1969, plaintiff Sulpicia Jimenez executed an affidavit adjudicating unto herself the other half of the property appertaining to Carlos Jimenez, upon manifestation that she is the only heir of her deceased uncle. Consequently Transfer Certificate of Title No. 82275 was issued on October 1, 1969 in petitioner's name alone over the entire 2,932 square meter-property.

On April 1, 1970, Sulpicia Jimenez, joined by her husband, instituted the present action for the recovery of the eastern portion of the property consisting of 436 square meters occupied by defendant Teodora Grado and her son.

After trial on the merits, the lower court rendered judgment, the dispositive portion of which reads:

"WHEREFORE, decision is hereby rendered dismissing the complaint and holding the defendant, Teodora Grado, the absolute owner of the land in question; ordering the plaintiffs to pay to the defendant the amount of P500.00 as damages, as attorney's fees, and to pay the costs of suit.

"SO ORDERED." (Rollo, p. 20)

Petitioner appealed the above judgment to the respondent Court of Appeals and on March 1, 1977, respondent Court of Appeals rendered a decision affirming the same in toto. Said decision was rendered by a special division of five (5) justices, with the Hon. Lourdes San Diego, dissenting.

Petitioners within the reglementary period granted by the Honorable Court of Appeals, filed therewith a motion for reconsideration. But said motion for reconsideration was denied by the Court of Appeals in its resolution dated June 3, 1977.

In their appeal to the respondent Court of Appeals from the aforequoted decision of the trial court, herein petitioner raised the following assignments of error to wit:

ASSIGNMENTS OF ERROR

I

THE LOWER COURT ERRED IN NOT DECLARING THAT MELECIA CAYABYAB, ALSO KNOWN AS MELECIA JIMENEZ, IS NOT THE DAUGHTER OF CARLOS JIMENEZ.

II

THE LOWER COURT ERRED IN NOT DECLARING THAT MELECIA CAYABYAB, ALSO KNOWN AS MELECIA JIMENEZ, HAS NO RIGHT TO SELL THE LAND IN QUESTION TO EDILBERTO CAGAMPAN.

III

THE LOWER COURT ERRED IN NOT DECLARING THAT EDILBERTO CAGAMPAN DID NOT BECOME THE OWNER OF THE LAND IN QUESTION BY VIRTUE OF THE DEED OF SALE (EXH. "1") EXECUTED BY MELECIA CAYABYAB, ALIAS MELECIA JIMENEZ, IN HIS FAVOR.

IV

THE LOWER COURT ERRED IN NOT DECLARING THAT TEODORA GRADO DID NOT BECOME THE OWNER OF THE LAND IN QUESTION BY VIRTUE OF THE DEED OF EXCHANGE (EXH. "7") EXECUTED BY HER AND EDILBERTO CAGAMPAN.

V

THE LOWER COURT ERRED IN NOT DECLARING THAT THE TITLE OF APPELLANT SULPICIA JIMENEZ OVER THE LAND IN QUESTION CAN NOT BE DEFEATED BY THE ADVERSE OPEN AND NOTORIOUS POSSESSION OF APPELLEE TEODORA GRADO.

VI

THE LOWER COURT ERRED IN DECLARING THAT THE APPELLEE TEODORA GRADO IS THE ABSOLUTE OWNER OF THE LAND IN QUESTION IN THE LIGHT OF THE DECISION OF THE SUPREME COURT IN THE CASE OF LOURDES ARCUINO, ET AL., V. RUFINA APARIS AND CASIANO PURAY, G.R. NO. L-23424, PROMULGATED JANUARY 31, 1968, WHICH CASE IS NOT APPLICABLE TO THE CASE AT BAR.

VII

THE LOWER COURT ERRED IN DISMISSING THE COMPLAINT AND ORDERING THE APPELLANTS TO PAY THE APPELLEES THE SUM OF P500.00 AS ATTORNEY'S FEES PLUS THE COSTS.

From the foregoing, this petition for review was filed.

We find merit in the petition.

From the start the respondent court erred in not declaring that Melecia Jimenez Cayabyab also known as Melecia Jimenez, is not the daughter of Carlos Jimenez and therefore, had no right over the property in question. Respondents failed to present concrete evidence to prove that Melecia Cayabyab was really the daughter of Carlos Jimenez. Nonetheless, assuming for the sake of argument that Melecia Cayabyab was the illegitimate daughter of Carlos Jimenez there can be no question that Melecia Cayabyab had no right to succeed to the estate of Carlos Jimenez and could not have validly acquired, nor legally transferred to Edilberto Cagampan that portion of the property subject of this petition.

It is well-settled in this jurisdiction that the rights to the succession are transmitted from the moment of the death of the decedent (Art. 777, Civil Code). Moreover, Art. 2263 of the Civil Code provides as follows:

"Rights to the inheritance of a person who died with or without a will, before the effectivity of this Code, shall be governed by the Civil Code of 1889, by other previous laws, and by the Rules of Court x x x." (Rollo, p. 17)

Thus, since Carlos Jimenez, owner of one-half pro-indiviso portion of that parcel of land then covered by Original Certificate of Title No. 50933, died on July 9, 1936 (Exhibit "F") way before the effectivity of the Civil Code of the Philippines, the successional rights pertaining to his estate must be determined in accordance with the Civil Code of 1889.

Citing the case of *Cio v. Burnaman* (24 SCRA 434) wherein this Court categorically held that:

"To be an heir under the rules of Civil Code of 1889 (which was the law in force when Carlos Jimenez died and which should be the governing law in so far as the right to inherit from his estate was concerned), a child must be either a child legitimate, legitimated, or adopted, or else an acknowledged natural child -- for illegitimate not natural are disqualified to inherit." (Civil Code of 1889, Art. 807, 935)

Even assuming that Melecia Cayabyab was born out of the common-law-relationship between her mother (Maria Cayabyab) and Carlos Jimenez, she could not even be considered an acknowledged natural child because Carlos Jimenez was then legally married to Susana Abalos and therefore not qualified to marry Maria Cayabyab and consequently Melecia Cayabyab was an illegitimate spurious child and not entitled to any successional rights in so far as the estate of Carlos Jimenez was concerned.

Melecia Cayabyab in the absence of any voluntary conveyance to her by Carlos Jimenez or Sulpicia Jimenez of the litigated portion of the land could not even legally transfer parcel of land to Edilberto Cagampan who accordingly, could not also legally transfer the same to herein private respondents.

Analyzing the case before Us in this manner, We can immediately discern another error in the decision of the respondent court, which is that the said court sustained and made applicable to the case at bar the ruling in the case of *Arcuino, et al., v. Aparis and Puray*, No. L-23424, January 31, 1968, 22 SCRA 407, wherein We held that:

"x x x it is true that the lands registered under the Torren's System may not be acquired by prescription but plaintiffs herein are not the registered owners. They merely claim to have acquired by succession, their alleged title or interest in lot No. 355. At any rate plaintiffs herein are guilty of laches."

The respondent court relying on the *Arcuino* case, concluded that respondents had acquired the property under

litigation by prescription. We cannot agree with such conclusion, because there is one very marked and important difference between the case at bar and that of the Arcuino case, and that is, that since 1933 petitioner Sulpicia Jimenez was a title holder, the property then being registered in her and her uncle Carlos Jimenez' name. In the Arcuino case, this Supreme Court held, "(I)t is true that lands registered under the Torren's System may not be acquired by prescription but plaintiffs herein are not the registered owners." (Rollo, p. 38) Even in the said cited case the principle of imprescriptibility of Torrens Titles was respected.

Melecia Cayabyab's possession or of her predecessors-in-interest would be unavailing against the petitioner Sulpicia Jimenez who was the holder pro-indiviso with Carlos Jimenez of the Torrens Certificate of Title covering a tract of land which includes the portion now in question, from February 28, 1933, when the Original Certificate of Title No. 50933 (Exhibit 8) was issued.

"No possession by any person of any portion of the land covered by said original certificate of titles, could defeat the title of the registered owner of the land covered by the certificate of title." (Benin v. Tuason, L-26127, June 28, 1974, 57 SCRA 531)

Sulpicia's title over her one-half undivided property remained good and continued to be good when she segregated it into a new title (T.C.T. No. 82275, Exhibit "A") in 1969. Sulpicia's ownership over her one-half of the land and which is the land in dispute was always covered by a Torrens title, and therefore, no amount of possession thereof by the respondents, could ever defeat her proprietary rights thereon. It is apparent, that the right of plaintiff (now petitioner) to institute this action to recover possession of the portion of the land in question based on the Torrens Title of Sulpicia Jimenez, T.C.T. No. 82275 (Exhibit "A") is imprescriptible and not barred under the doctrine of laches. (J. M. Tuason & Co. v. Macalindong, L-15398, December 29, 1962, Francisco v. Cruz, et al., 43 O.G. 5105) (Rollo, p. 39)

The respondent Court of Appeals declared the petitioner Sulpicia Jimenez guilty of laches and citing the ruling in the case of Heirs of Lacamen v. Heirs of Laruan (65 SCRA 605), held that, since petitioner Sulpicia Jimenez executed her Affidavit of Self-Adjudication only in 1969, she lost the right to recover possession of the parcel of land subject of the litigation.

In this instance, again We rule for the petitioner. There is no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances. The question of laches is addressed to the sound discretion of the court and since laches is an equitable doctrine, its application is controlled by equitable considerations. It cannot be worked to defeat justice or to perpetrate fraud and injustice. It would be rank injustice and patently inequitable to deprive the lawful heirs of their rightful inheritance.

Petitioner Sulpicia Jimenez is entitled to the relief prayed for, declaring her to be the sole and absolute owner of the land in question with right to its possession and enjoyment. Since her uncle Carlos Jimenez died in 1936, his pro-indiviso share in the properties then owned in co-ownership with his niece Sulpicia descended by intestacy to Sulpicia Jimenez alone because Carlos died without any issue or other heirs.

After all, the professed objective of Act No. 496, otherwise known as the Land Registration Act or the law which established the Torrens System of Land Registration in the Philippines is that the stability of the landholding system in the Philippines depends on the confidence of the people in the titles covering the properties. And to this end, this Court has invariably upheld the indefeasibility of the Torrens Title and in, among others, J. M. Tuazon and Co., Inc. v. Macalindong (6 SCRA 938), held that "the right of the appellee to file an action to recover possession based on its Torrens Title is imprescriptible and not barred under the doctrine of laches."

WHEREFORE, the Petition for Review is hereby GRANTED. The Decision and Resolution dated March 1, 1977 and June 3, 1977 in CA G.R. No. L-49178-R are SET ASIDE.

SO ORDERED.

Padilla, Sarmiento, and Regalado, JJ., concur.

Melencio-Herrera, J., (Chairman), no part.

[1] [&] [2] Penned by Justice Ameurfina Melencio-Herrera, and concurred in by Justices Jose G. Bautista, Mariano V. Agcaoili and Rafael C. Climaco. Justice Lourdes P. San Diego, dissenting.

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