

**GREGORIO JANDUSAY, EUSEBIO JANDUSAY, DEMETRIA JANDUSAY
AND LEONILA FABRO, PETITIONERS, VS. COURT OF APPEALS,
EMETERIA SALVA, ESPERANZA SALVA, PEDRO LAZO, PAULA LAZO,
BRIGIDO LAZ...**

G.R. No. L-48714. April 18, 1989

Ponente: NARVASA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9ec89ca668f1/>

NARVASA, J.:

The controversy at bar concerns the ownership of one of two pieces of land embraced in a Torrens title: Parcel No. 1 of Original Certificate of Title No. 61 of the Registry of Deeds of Oriental Mindoro, issued on August 7, 1911 in the name of Jorge Lingon, married to Arcadia Ganibo. The lot is situated in Barrio Catiningan, Pola, Oriental Mindoro and has an area of 84,964.25 square meters, more or less.¹ [As regards the other parcel covered by the certificate of title, the record shows that Lingon had been selling portions thereof to different individuals from 1938 to 1947, a period of nine years, all said sales having been annotated on the title.²] The protagonists are -

1) on the one hand, the collateral relatives of Jorge Lingon, herein private respondents, who -- after the death of Lingon on February 16, 1949 without issue (his wife, Arcadia Ganibo, having died earlier) -- adjudicated unto themselves the property covered by OCT No. 61 in virtue of a Deed of Extrajudicial Partition executed on January 14, 1956 and thereafter caused cancellation of said title and the issuance of a new one in their names, TCT No. T-5420;¹ and

2) on the other, the petitioners herein, the heirs of Dominga Marquez, who claim that in January, 1915 Jorge Lingon had sold the land embraced in OCT No. 61 to a certain Mariano Lontok for P500 by a deed allegedly thumb-marked by Lingon before the Justice of the Peace of Pola, Oriental Mindoro, which deed was not however registered; that by a deed entitled "Escritura de Compraventa" executed on April 30, 1917 and another entitled "Transfer of Real Property" executed on July 24, 1918, Mariano Lontok had conveyed the same property to Dominga Marquez; and that Dominga Marquez and her children had thereafter taken possession of the land and declared it for taxation purposes since 1918.²

Litigation over said Parcel No. 1 of OCT No. 61 began with the filing of a complaint for recovery of possession thereof in the Court of First Instance of Oriental Mindoro by herein private respondents, the heirs of Jorge Lingon, hereafter collectively referred to simply as the SALVAS.³ The petitioners, hereafter collectively referred to simply as the JANDUSAYS, instituted their own separate action in the same Court, for annulment of title and reconveyance of property.⁴ The cases were consolidated and jointly tried and decided. The verdict of the Trial Court⁵ went against the SALVAS, the dispositive portion thereof being as follows:

"WHEREFORE, a decision is hereby rendered in favor of the JANDUSAYS and against the SALVAS:

1. Dismissing the action of the SALVAS against the JANDUSAYS in Civil Case No. R-667, with costs against

the former in favor of the latter;

2. Declaring the annulment and the consequent cancellation of Transfer Certificate of Title No. T-5420 in the name of the SALVAS over the land in question, as to Parcel No. 1 described therein which is the land in litigation;

3. Ordering the Register of Deeds of Oriental Mindoro to issue a new Transfer Certificate of Title on the same Parcel No. 1 of Transfer Certificate of Title No. T-5420 in the name of JANDUSAYS, specifically, Gregorio Jandusay, Demetria Jandusay, Eusebio Jandusay and Leonila Fabro, pro-indiviso in equal parts; and

4. Condemning the SALVAS in Civil Case No. R-668 to pay the costs thereof to the JANDUSAYS in said case.

No pronouncement as to damages in both cases, R-667 and R-668."

Both the SALVAS and the JANDUSAYS appealed to the Court of Appeals.¹ There, their appeals ran an uncertain course; there was no little divergence of views among the magistrates regarding the merits of their appeals; first, judgment was rendered in favor of the JANDUSAYS; but in the end, the SALVAS prevailed.

The three (3) justices of the division to which the appeal was initially assigned could not agree on a unanimous verdict;² hence, a special division of five (5) had to be constituted. The special division's joint judgment on the appeals was pronounced on November 8, 1976, on a vote of three to two: the ponente was Agcaoili, J., with whom concurred Fernandez and Domondon, JJ., and San Diego and Melencio-Herrera, JJ., dissented. Said judgment affirmed the decision of the Trial Court in toto. The SALVAS moved for reconsideration on November 29, 1976.³ Their motion remained unresolved for about eight (8) months. In the interim Mr. Justice Fernandez was appointed to the Supreme Court and Mr. Justice Domondon retired; and Messrs. Justices Hugo Gutierrez, Jr. and Ricardo C. Puno were selected to take their place, by a re-affle.⁴ Thereafter the special division ("Former Special Fourth Division") deliberated on the SALVAS' motion for reconsideration. Mr. Justice Agcaoili voted to deny the motion for reconsideration. However, the four (4) others, Mme. Justices San Diego and Melencio-Herrera, and Messrs. Justices Gutierrez and Puno, voted to grant the motion. On this basis, a Resolution was drawn up by Mme. Justice Melencio-Herrera; but at the time of its promulgation on February 28, 1978, Messrs. Justices Agcaoili and Puno had already presented their candidacies for the Interim Batasang Pambansa and consequently ceased to be members of the Court of Appeals; hence, the Resolution was signed only by the three (3) remaining Justices composing the special division of five, it being pointed out that this number was, by the way, sufficient for the pronouncement of a judgment in accordance with Section 2, Rule 51 of the Rules of Court.¹

The Resolution overturned the Decision of November 8, 1976 and disposed of the appeals as follows:

"WHEREFORE, granting the Motion for Reconsideration, the judgment appealed from is hereby set aside, and another one entered 1) dismissing Civil Case No. 668-R, the suit for Annulment of Title; and 2) ordering Gregorio Jandusay et als. to surrender possession of Parcel No. 1 covered by TCT No. T-5420, to Emeterio Salva et als., upon this Decision becoming final.

No costs in both instances."

A motion for reconsideration was in due time submitted by the JANDUSAYS, and one for amendment of the resolution, by the SALVAS. The motions were disposed of by a Resolution dated August 3, 1978,² as follows:

"WHEREFORE, 1) the Motion for Reconsideration filed by the JANDUSAYS is hereby denied for lack of merit;

2) In respect of the Motion for Amendment of our Resolution dated February 28, 1978, filed by the SALVAS,

the Court resolves:

- a) The SALVAS are hereby authorized to withdraw the owner's duplicate of Transfer Certificate of Title No. T-5420 attached to the records of this case, under proper receipt;
- b) The petition to include compensatory damages in favor of the SALVAS is denied, their entitlement to them not having been indubitably established."

The JANDUSAYS are now before this Court, having timely filed a petition for review on certiorari,³ seeking review and reversal of the Appellate Court's aforementioned Resolutions of February 28, 1978 and August 3, 1978. Their appeal was given due course by Resolution dated November 27, 1978. Withal, their appeal must fail.

The JANDUSAYS argue that the challenged resolutions should be set aside because tainted by several serious errors.

Their first contestation is that the resolutions reversing, and sustaining reversal of, a special decision of five (5) -- having been rendered when there were only three (3) members of that special division, the other two (2) having in the meantime ceased to be members of the Court of Appeals -- are "contrary to the letter and spirit of Paragraph 3, of Section 2, Article X of the 1973 Constitution" which in part states that "no decision rendered en banc or in division may be modified or reversed except by the Court sitting en banc." The theory is palpably unmeritorious. A reading of the cited paragraph in the context of the others in the Section at once discloses that it can have no reference except to the Supreme Court, and that indeed it cannot possibly apply to the Court of Appeals since, in the exercise of adjudicatory powers, that Court never sits en banc but only in divisions of three justices (or special divisions of five).

The next point that the JANDUSAYS try to make is that the resolutions (a) wrongly concluded that they had failed to establish by preponderance of evidence: (i) the due execution and delivery of the deed of sale of the lot in question by Jorge Lingon in 1915 in favor of Mariano Lontok, and the deed of sale by the latter in 1917 of the same property to Dominga Marquez; and (ii) "the loss and contents of the deed of sale executed in 1915 by Jorge Lingon in favor of Mariano Lontok over the litigated property," and (b) wrongly applied "the survivorship disqualification rule and ** (disregarded) the rules on admission by privy and declaration against interest made by Jorge Lingon" testified to by Demetria Jandusay.¹

In the proceedings before the Trial Court, the JANDUSAYS could not present in evidence the original of the deed of sale allegedly executed in 1915 by Jorge Lingon in favor of Mariano Lontok (from whom, in turn, the Jandusays' predecessor-in-interest had acquired the land in question). It apparently had been lost. They therefore submitted secondary evidence to establish the sale, consisting of the sworn declarations of Mariano Lontok, Severo Geronimo (bilas of Lingon), Enrique Morente, Demetria Jandusay and Gregorio Jandusay.² Whether or not this evidence satisfactorily proved the existence of the deed of sale, its due execution, loss, and contents has been subject of considerable disagreement and extensive analysis among the parties, of course, as well as the Trial Court and, as already narrated, the Honorable Justices of the Court of Appeals themselves. The correctness of those conclusions has also still been subject of debate among the parties before this Court. What is not subject of dispute is the proposition that whatever deductions are drawn from the evidence are conclusions of fact, and not of law.

Now, the findings in the Resolution of February 28, 1978 -- to the effect that the evidence had not satisfactorily established "the loss of the deed of sale between JORGE and LONTOK,"³ or the contents of the lost document,¹ or that it was "the LITIGATED PROPERTY (which) was, indeed, sold by JORGE to LONTOK, and that it was the (same) LITIGATED PROPERTY which the latter had sold to DOMINGA,"² and that, "(i)n the last analysis," the body of proofs adduced by the JANDUSAYS was not so clear and convincing as to defeat the rights of the

registered owner³ -- are conclusions of fact. These findings are quite clearly reasoned conclusions, reached only after study and assessment of the proofs, an appraisal of testimonial credibility of witnesses, and a weighing of probabilities regarding the conduct and reaction of the parties to the alleged sales on the basis of proven past acts and in light of human experience. They cannot thus be said to be grounded "entirely on speculation or conjecture," or to have been arrived at whimsically, capriciously or arbitrarily. Therefore, by established doctrine, they are binding on this Court and may not be reviewed by it, as the petitioners would wish, absent, as here, any of the recognized exceptions to the doctrine.⁴

The appealed Resolution correctly applied the so-called Surviving Party Rule or the Dead Man's Act to exclude the testimony of Demetria Jandusay relative to the statement ascribed to Jorge Lingon that the Jandusays should "not ** insist in having the deed of sale registered or annotated ** as according to him before he dies he would sell his property and that in all probability we might as well buy his remaining property."⁵ The rule is found in Section 20, Rule 130 of the Rules of Court and reads as follows:

"SEC. 20. Disqualification by reason of interest or relationship. - The following persons cannot testify as to matters in which they are interested, directly or indirectly, as herein enumerated:

(a) Parties or assignors of parties to a case, or persons in whose behalf a case is prosecuted against an executor or administrator or other representative of a deceased person, * * upon a claim or demand against the estate of such deceased person * * cannot testify as to any matter of fact occurring before the death of such deceased person * * ;

* * * *."

There can be no doubt that the JANDUSAYS' suit in the Trial Court had for its essential object the enforcement of a deed of sale allegedly executed by the deceased Jorge Lingon during his lifetime; so that in truth, and adapting the language of the "Dead Man's Act," the JANDUSAYS were parties or persons in whose behalf a case was being prosecuted upon a claim or demand against the estate of Jorge Lingon. For that sale, supposedly executed about 40 years prior to the institution of the action, was the definitive foundation of the JANDUSAYS' asserted cause of action, i.e., the cancellation of the title of the collateral heirs of the vendor and the reconveyance of the property to them by said heirs, the theory obviously being that at the time of the vendor's death, the property no longer formed part of his estate and therefore could not possibly have been inherited by his heirs. Nor can there be any doubt that the suit was being prosecuted against representatives of the deceased person, i.e., Lingon's collateral relatives, who had adjudicated the property to themselves as intestate heirs and who, in the action were asserting a defense (denial of the sale) which the deceased might have himself set up, if living.¹ The heirs of Lingon were not asserting their status as such heirs to defeat the JANDUSAYS' action, that not being the chief issue, but were basically contending that the property in question still formed part of the estate of the decedent at the time of his death and had not been segregated therefrom by sale to the JANDUSAYS' predecessor-in-interest.

It is not amiss to state in this connection that the challenged Resolution refused to accord veracity to the statement attributed to Jorge Lingon supposedly asking for deferment of registration of the sale in favor of the JANDUSAYS because it "runs counter to the fact that the partial sales made by JORGE of Parcel No. 2 were all registered," and because the failure of the JANDUSAYS for an unreasonably long period to resort to readily available legal remedies to compel the delivery of the certificate of title and have the sale to them annotated thereon militated against their averment that Lingon had indeed sold the land to them had refused to lend them the title so that the sale could be registered.²

The JANDUSAYS also argue that the failure of Jorge Lingon to dispossess them and their

predecessors-in-interest from the litigated property for a period of thirty-four (34) years, and a like failure by the SALVAS to do so for seven (7) years, justify the application of the equitable doctrine of laches in their (the JANDUSAYS') favor, as well as the ruling in *Mejia de Lucas v. Gamponia*, 100 Phil. 277; *Pabalate v. Echavari, Jr.*, 37 SCRA 518; and *Heirs of Lacamen v. Heirs of Laruan*, "65 SCRA".¹ The argument is effectively confuted by the following disquisition in the Resolution of February 28, 1978 to which this Court hereby confers sanction:

"If JORGE's inaction in dispossessing the JANDUSAYS of the LITIGATED PROPERTY can be alleged against him in a question of title, the inaction of the JANDUSAYS or their predecessor-in-interest in not compelling JORGE to formally transfer the title to the LITIGATED PROPERTY to them for several years can also be alleged against the JANDUSAYS in this controversy over title. Further, if, as alleged, 'inaction of the SALVAS from 1949 when JORGE Lingon died, up to 1956 when they executed the extrajudicial partition, betrayed their hesitancy in taking such step knowing too well the weakness of their claim' by the same token, the legal inaction, the failure to take remedial steps of the JANDUSAYS from 1930 when they learned of the existence of the title, up to JORGE Lingon's death in 1949, and thence up to 1956 when they filed their counter-suit against the SALVAS only after the latter had instituted their action for recovery of possession, could also be interpreted as an awareness on their part of the weakness of their claim of title. In other words, 'Laches' and inaction imputed to the SALVAS may likewise be laid at the feet of the JANDUSAYS. The 'laches' of one nullifies the 'laches' of the other. One who seeks equity must himself be deserving of equity. When parties are in culpability similarly situated ('in eodem loco'), it is a general principle of law that one may claim no advantage over the other - a principle consistently applied in the 'pari delicto' rule imbedded in our legal system (Arts. 1411, 1412, 100, 453, Civil Code).

The cases of *Mejia de Lucas v. Gamponia*, 100 Phil. 277 (1956), that of *Pabalate v. Echavari, Jr.*, ** 37 SCRA 518, which applied it, as well as that of *Heirs of Lacamen v. Heirs of Laruan*, ** 65 SCRA 605 cannot be invoked herein to justify a judgment in favor of the JANDUSAYS on the ground of laches, due to fundamental differences: 1) the first two cases involved the prohibition against the sale of free patents where under the pertinent law, an original patentee is given seven years from conveyance within which to bring an action to recover the property. Plaintiffs therein failed to exercise that right within the reglementary period but allowed 37 years (in the *Mejia Case*) and 32 years (in the *Pabalate Case*) to lapse; hence, the Supreme Court ruling that the original owners' right to recover the possession of the property and the title thereto from the defendants had, by patentee's inaction and neglect, been converted into a stale demand. In contrast, an action to recover possession of a registered land, such as that brought by the SALVAS, never prescribes in view of Section 46 of the Land Registration Act to the effect that no title to registered land in derogation of that of the registered owner shall be acquired by prescription or adverse possession. In fact, as held in *J.M. Tuason & Co. Inc. vs. Macalindong*, L-15398, December 29, 1962, 6 SCRA 938, the right to file an action to recover possession based on a Torrens Title is imprescriptible and is not barred under the doctrine of laches. And even if laches were invocable, and that plaintiffs had 'slept on their rights,' with equal vigor can it be said that defendants themselves are chargeable with laches. 2) In the three mentioned cases, the fact of sale of the litigated properties was admitted unlike in this case where such sale has been challenged, nor has it even been proven. 3) In addition, the sale in this case to the JANDUSAYS was not made by the original registered owner himself. It is merely alleged that he had sold it to LONTOK who, in turn, sold it to the JANDUSAYS."

The JANDUSAYS next attack the very title of the SALVAS. They contend that the property covered by OCT No. 61 was conjugal property of the spouses Jorge Lingon and Arcadia Ganibo; that upon the latter's death, the widower, Jorge Lingon, inherited only one-half thereof in usufruct "while the naked ownership could be inherited" by the decedent's collateral relatives; that the SALVAS are "not collateral relatives by blood of Jorge Lingon," and could not therefore have validly inherited from him and in truth acquired nothing by their execution of a deed of extrajudicial partition of Lingon's estate, the execution thereof being, in addition, attended by fraud.¹ The attack is pointless. Even if consistent with the demonstrated facts, a doubtful proposition at best, it would not enhance the petitioners' cause one whit. Absence of title over the property in question in Jorge Lingon, or

substantial defect thereof, would not in any manner whatever show valid acquisition of ownership of said property by the JANDUSAYS. On the contrary, it would demonstrate invalidity or defect in their own claim of title. Similarly, absence of the status of heirship in the SALVAS vis-a-vis Jorge Lingon is utterly inconsequential as far as concerns the JANDUSAYS' claim of conveyance by Lingon to their predecessor-in-interest. Moreover, being heirs of neither Jorge Lingon nor Arcadia Ganibo, they have no personality or standing to question the succession to the estate of either. In any event, the Court is satisfied that the Appellate Court has properly upheld the SALVAS' title to the property in question.

WHEREFORE, finding no error in the Resolutions subject of appeal, dated February 28, 1978 and August 3, 1978, the same are hereby AFFIRMED in all respects. Costs against petitioners.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

1 Rollo, pp. 62-63, 86

2 Id., p. 89

1 Rollo, pp. 63-64, 86

2 Id., pp. 64, 86

3 Id., p. 71.

The case was docketed as Civil Case No. R-667-P: Record on Appeal (Rollo, p. 57)

4 Id., pp. 71-72; the case was docketed as Civil Case No. 668-P: Record on Appeal, supra

5 Rendered on April 25, 1969 by Hon. Pascual M. Beltran: Rec. on App., Rollo, pp. 57 et seq.

1 Rollo, pp. 9-10. The SALVAS' appeal was docketed as CA-G.R. No. 44618-R; that of the JANDUSAYS, CA-G.R. No. 44619-R

2 Id., pp. 70 et seq. The dissent of Mme. Justice Melencio-Herrera (now an Associate Justice of the Supreme Court) precluded unanimity in the decision.

3 Id., p. 84

4 Id., pp. 84-85

1 Rollo, pp. 85-86. The ponente was Mme. Justice Melencio-Herrera. Concurring was Mme. Justice San Diego.

Also concurring was Mr. Justice Gutierrez, Jr.

2 Id., pp. 101-102

3 Pursuant to Rule 45 of the Rules of Court

1 Rollo, pp. 18 et seq.:

Id., p. 149: Brief for the Petitioners, at pp. 27-37

2 Id.

3 Id., pp. 88-90

1 Id., p. 91

2 Id., pp. 90-91

3 Id., pp. 97-98

4 SEE Vallarta v. IAC, 151 SCRA 679 and the cases therein cited

5 Rollo, p. 186. Quoted in its entirety, the relevant testimony runs as follows: "In the year 1930 when my mother was still living, my brother, Gregorio Jandusay, went to Jorge Lingon requesting him to lend us his title covering the land in question for the purpose of having our deed of sale registered, to have the sale annotated at the back thereof, but he told us not to insist in having the deed of sale registered or annotated at the back of the title as according to him before he dies he would sell his property and that in all probability we might as well buy his remaining property." TSN, Dec. 15, 1959, pp. 82-83. N.B. The declaration implies that it was only Gregorio who had gone to see Jorge Lingon; and so, whatever knowledge Demetria might have of Lingon's statements to Gregorio could only have been derived from the latter. There is, too, some implication in Lingon's supposed statement that the sale was to be perfected at a future time, "before he dies."

1 SEE Moran, Comments on the Rules of Court, 1963 ed., Vol. 5, p. 154

2 Rollo, p. 94

1 Brief for Petitioners, pp. 77-83 Rollo, p. 149

1 Rollo, pp. 90-110

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.