

**JOAQUIN CABRERA AND JUANA VISITACION, PETITIONERS, VS.
COURT OF APPEALS AND FELISA GONZAGA, FERNANDO GONZAGA,
AURORA GONZAGA, SALOME GONZAGA, ROSARIO GONZAGA,
SIMEON POLICARPIO, ...**

G.R. No. L-41805. June 30, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

The subject of this controversy is a parcel of land with an area of 4,080 square meters situated in Cainta, Rizal.[1] It was originally owned by the spouses Diego and Patricia Gonzaga, who acquired it in 1921, presumably with conjugal funds.[2] Both are now dead, survived by the private respondents, their grandchildren by their deceased children. The petitioners claim the property by virtue of an alleged sale in their favor, the private respondents by right of succession.

The records show that the tax declaration on the land had since 1921 been in the name of the spouses Gonzaga[3] until 1944, when it was made in the name of Eliseo Gonzaga, one of their children.[4] In 1953, the tax declaration was again changed, this time in the name of Joaquin Cabrera.[5] In 1970, the private respondents filed a complaint for recovery of the property from the petitioners in the Court of First Instance of Rizal, claiming that the latter had no right to the property.[6] The petitioners, in their answer, invoked a sale made to them by Eliseo Gonzaga, who had previously purchased the land from his parents, adding that they had been in possession of the property since 1944.[7] Both parties adverted in their respective pleadings to the petitioners' application for registration of the land under the Torrens system which was then pending in another court.[8] The petitioners claimed it was justified by their right of ownership while the private respondents contended it was a fraudulent act that did not bind them.[9]

At the trial, the plaintiffs presented two of them, Conrado Cruz[10] and Fernando Gonzaga,[11] who affirmed the allegations in their complaint that they had inherited the property and had been in continuous possession thereof, first through their grandparents and later through Cruz, who cultivated the land and distributed the harvest among all of them. Before resting, their counsel asked for the amendment of the complaint so as to make it read that they discovered the change in the name of the tax declaration in "1969" instead of "1960" as erroneously written. This was granted without objection from the defense.[12] The defense for its part presented only Juana Visitacion,[13] Joaquin Cabrera's wife and one of the herein petitioners, who declared that the subject land had already been registered in their name and submitted the decision in the land registration case as their sole exhibit.[14] No other evidence was presented to refute the complaint.

The trial court sustained the plaintiffs after finding that their evidence remained un rebutted, and declared them to be the owners of the disputed property. Judge Pedro C. Navarro held that the defendants had failed to prove the alleged sale to them of the land by Eliseo Gonzaga and that even the decision in the land registration case was vague on this matter. The defendants were enjoined from "further molesting the plaintiffs from the peaceful

possession" of the property.[15]

The respondent court[16] affirmed the decision on appeal but with the modification that, as recognized by the plaintiffs, the one-fifth share pertaining to Eliseo Gonzaga should be retained by the defendants.[17] The defendants moved for reconsideration based mainly on what they called newly-discovered evidence, but the motion was denied.[18] The petitioners then came to this court on certiorari under Rule 45 of the Rules of Court. Their position is that the respondent court erred in not holding that the complaint was barred by laches or prescription; in considering and allowing the complaint as an action for reconveyance; and in rejecting their newly-discovered evidence.

The petitioners contend that the complaint was barred by laches or prescription because it was filed after more than four years after the supposed discovery by the private respondents of the transfer of the tax declaration in the name of Eliseo Gonzaga in 1944 and in the name of Diego Cabrera in 1953. They argue that this is not allowed under the statute of limitations.

By their own admission in their complaint, the private respondents learned of such transfers in 1960, yet it was only after ten years when they commenced their suit. Moreover, the tax declarations were public instruments which served as constructive notice upon all of them upon issuance. Hence, the prescriptive period began as early as 1944 and 1953, respectively, and had long expired before the complaint was filed.[19]

These arguments must fail. As the private respondents explained when they asked for the amendment of their complaint, the figures "1960" were a typographical error and should have read "1969." The change was approved by the court. It is significant that the defense did not object to the correction requested. Earlier in their answer, the petitioners had not pleaded prescription as a special defense although they could and should have done so since the complaint had not yet been amended then. It would appear then that if any one is to be blamed for any inaction, it is the petitioners themselves.

The petitioners have not cited any jurisprudence to support their claim that tax declarations are binding on the whole world because of their nature as public instruments. In fact, there is no such jurisprudence. It is strange doctrine, indeed, that every one is deemed charged with knowledge of every public document simply because it is public in nature. The conclusion has no basis in law or reason. The decision in this case, for example, will not bind even the immediate parties unless they are duly served with copies thereof. Yet this decision is undoubtedly a public record.

The respondent court is also faulted for considering the complaint an action for reconveyance under Act No. 496, as amended. The petitioners argue that an action for reconveyance was premature at the time because the land registration case was still pending and no decision had yet been made therein (although such decision was later rendered and pleaded by them as a defense). They also stress that an action for reconveyance cannot be made in the absence of fraud or breach of a fiduciary relationship, neither of which has been established in their case. Moreover, the annulment of a registration under the Torrens system should be made with the utmost caution, to maintain the integrity of titles secured thereunder. In any event, it cannot be done collaterally as in the instant action.[20]

In *Agreda vs. Agreda*,[21] we held that an action for reconveyance may be filed even before the issuance of the decree of registration. There is no reason, indeed, why one has to wait until the land is actually registered before he can sue for reconveyance. The private respondents filed their complaint because they were unwilling to recognize the registration proceedings for lack of compliance with the notification requirements. They did not have to await its termination. As it happened, providentially, the registration was granted during the trial of the plaintiffs' complaint for recovery of the property. Hence, their pending action could conveniently and property be

deemed an action for reconveyance, filed within the one-year reglementary period prescribed by the Land Registration Act.

And there were valid grounds, too. The private respondents were able to establish that the transfer of the land had been made under fraudulent circumstances to their detriment as the hereditary owners of the property. They also submitted that they had not received notice of the registration proceedings and that no notice thereof had been posted on the subject land as required by law. These grounds were not controverted at the trial.

It is worth emphasizing that no evidence has been adduced to show that the private respondents' uncle, Eliseo Gonzaga, who had allegedly purchased the land from their grandfather Diego Gonzaga in 1944, had informed them of this fact although he was living with them at that time. And neither has it been shown that they were told of the transaction by their grandfather, who would have felt it his responsibility to do so, to avoid any future misunderstanding among his children and grandchildren.

No less significantly, Eliseo also did not choose to tell his brothers and sisters, and his nephews and nieces, who were then in possession of the land, that he had sold the whole area to the petitioners. All the while he was living with them, he kept this transfer secret and his relatives remained in the land thinking it was still theirs.

Strangest of all, the petitioners themselves seem also to have decided not to say anything about their own claimed purchase. It is undisputed that it was only in 1969, sixteen years after they had allegedly bought the property, that they filed their application for its registration in their name.[22] Meanwhile, as the respondent court later found, the private respondents had remained in possession of the land and were told by the petitioners to vacate the same only in 1969.[23] Apparently, it did not occur to the petitioners before then to claim what was rightfully theirs; for some unexplained reason, they waited all of sixteen years before doing so.

Finally, the petitioners invoke their motion for reconsideration, which they say should not have been denied because it was based on valid grounds, to wit, their newly-discovered evidence and the conflicting and perjurious testimony of Conrado Cruz.

The claimed newly-discovered evidence consisted of a deed of sale of the subject land supposedly executed by Diego Gonzaga in favor of his son Eliseo in 1944 and another deed of sale with pacto de retro, covering the same land, supposedly executed by Eliseo in favor of the petitioners in 1953. In the affidavit of merit[24] the petitioners say they filed, they declared that they were able to locate these documents only "miraculously" and "by sheer act of God" in the home of a relative where they used to evacuate in case of flood. They also said the discovery was made only "recently" or before their motion for reconsideration was filed on August 2, 1975.

It suffices to quote from the decision of Judge Benjamin H. Aquino in the land registration case, where he declared that "it appears from the evidence submitted that the (land) was formerly possessed under claim of ownership by Eliseo Gonzaga since the early part of the American regime in the Philippines; that by virtue of a Deed of Sale with Pacto de Retro executed by him on January 14, 1953, he sold the same to the herein applicants, but the same was never redeemed by Eliseo Gonzaga and ownership thereof was consolidated in the name of the applicants." (Italics supplied). This decision is dated December 7, 1971. Obviously, the said deed of sale was in existence and not missing at that time, contrary to allegations later made by the petitioners, and so could have been submitted not only in the registration case before Judge Aquino but also in the trial of the complaint for recovery before Judge Navarro.

Even assuming that the alleged deed of sale executed by Diego Gonzaga in favor of Eliseo Gonzaga was really not available at the time of the trial, it would not have affected the decisions of the courts a quo anyway. The document might have proved that the land had been sold to Eliseo Gonzaga but that fact alone would not have

proved that he later transferred it to the petitioners.

As for the witness Conrado Cruz, there is no reason why his testimony in the registration case, which was decided earlier than the recovery case, was not presented in the latter case to refute his testimony therein in favor of the private respondents. This matter was also belatedly raised, only in the motion for reconsideration, and was therefore also correctly disregarded by the respondent court. Even the prosecution of Cruz for perjury could not have been considered at the time by the respondent court in arriving at its own decision. The criminal case was then still pending and it had still to be decided in which of the two proceedings the accused had falsely testified.

The petitioners miscalculated when they relied alone on Judge Aquino's decision in the registration case to resist the private respondents' complaint for recovery before Judge Navarro. They should have faced the issue frontally when the registration proceedings were assailed in the private respondents' complaint and in the trial of the second case.

The Court finds that the respondent court committed no reversible error in sustaining the trial court except only for the modification already noted. The findings of fact are supported by substantial evidence and in any case are not and cannot be contested in this proceeding. The legal conclusions are in accord with the applicable law and jurisprudence and for this reason will not be disturbed.

ACCORDINGLY, the petition is DENIED and the appealed decision is AFFIRMED in toto, with costs against the petitioners. It is so ordered.

Narvasa, Gancayco, and Griño-Aquino, JJ., concur.

Medialdea, J., on leave.

[1] Rollo, p. 61.

[2] Ibid.

[3] Id.

[4] Id., pp. 61-62.

[5] Id., p. 62.

[6] Id., p. 61; Record on Appeal, pp. 1-7.

[7] Id., pp. 63-64; Record on Appeal, pp. 9-13.

[8] Record on Appeal, p. 5; 10, 12.

[9] Ibid., pp. 5-6; 11-12.

[10] TSN, August 12, 1971, p. 4. ,

[11] Ibid., p. 32.

[12] Id., pp 49-51.

[13] Id., January 7, 1972, p. 5.

[14] Id., pp. 12-16.

[15] Record on Appeal, pp. 18-19.

[16] Through Justice Ramon C. Fernandez, ponente, and concurred in by Justices Efren I. Plana and Venicio Escolin.

[17] Ibid., p. 68.

[18] Id., p. 5; 35.

[19] Petitioner's Brief, pp. 14-27.

[20] Rollo, pp. 31, 100; Petitioner's Brief, p. 32.

[21] 39 SCRA 191.

[22] Ibid., p. 26; Decision of Land Reg. Court, pp. 15-16.

[23] Record on Appeal, pp. 15-17.

[24] Ibid., p. 99.

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