

**LAUREANA TAMBOT, ISIDORA TAMBOT, AURELIA TAMBOT,
ANSELMA ASPIRAS AND CRESENCIA ASPIRAS, PETITIONERS, VS. THE
HONORABLE COURT OF APPEALS, BERNABE S. REYES AND
FILOMENA ALMUETE, R...**

G.R. No. L-46238. January 22, 1990

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

The petitioners have appealed the decision dated May 11, 1977 of the Court of Appeals in CA-G.R. No. 58360 reversing that of the Court of First Instance of Pangasinan which annulled the deed of sale made by Rufino Tambot, brother of plaintiffs, of the property which they owned in common, declared the plaintiffs (herein petitioners) to be the absolute owners of 285.6 sq.m. out of 357 sq.m. of the said property, and ordered the defendants (vendees of the property) to vacate the same. The Court of Appeals declared the defendants the lawful owners of the disputed property and ordered the issuance of a new title for the same in their names.

The background facts are recited in the decision of the Court of Appeals as follows:

“There are two lots (Lot No. 1 and Lot No. 2) situated in Pozorrubio, Pangasinan. On May 31, 1931, they were covered by Original Certificate of Title No. 46641 of the land records of Pangasinan issued in the name of TARCELA de Guzman, who died in 1932, survived by five children : Laureana, Isidora, Aurelio, Celestina and Rufino, all surnamed Tambot. Celestina had passed away, leaving two children named Anselma and Cresencia Aspiras.

“Lot No. 2, containing 532 square meters, is the LAND involved in this appeal. Although the LAND was titled in the name of TARCELA, the corresponding tax declarations was in the name of her sister, MARGARITA de Guzman, now also deceased.

“According to Rufino, the LAND really belonged to MARGARITA, whose heirs included Fernando Yango and Felix Perez. In 1938, when the said heirs wanted to sell the LAND, he had to execute the corresponding deed of sale because the title was in the name of TARCELA. Thus, on May 26, 1938, he sold 357 square meters of the LAND (the DISPUTED PROPERTY) to Cipriano Calongcagon: The deed of sale included the following paragraph —

“En testimonio de la cual, firmo la presente de mi propio puño Y letra, hoy en Pozorrubio, Pangasinan, I.F. a 26 de Mayo de 1938, y que firmaran conmigo mis hermanas en señal de conformidad, como tambien mis primos Fernando Yango y Felix Perez.’

“The deed of sale was actually signed by Fernando Yango and Felix Perez and by Laureana, Isidora, and Aurelia Tambot (Exhibit ‘B’).

“On the same date of May 26, 1938, Rufino also sold 220 square meters of the LAND to Maximo PACETES with right to repurchase. Rufino has claimed that the said 220 square meters had already been acquired by him from the

heirs of MARGARITA. PACETES built a house on the portion of the LAND sold to him, and has claimed ownership of the same on the ground that Rufino had failed to exercise his right to repurchase.

"After Calongcagon acquired the DISPUTED PROPERTY, he sold it on August 1, 1938 to Maria Estarls, whose heirs, on July 27, 1955, in turn, sold it to the DEFENDANTS herein. Subsequently, DEFENDANTS declared the DISPUTED PROPERTY as their property, and paid taxes thereon. DEFENDANTS have planted bananas and other fruit trees in the DISPUTED PROPERTY and reaped the products produced therefrom.

"On January 6, 1952, PACETES caused the annotation of an adverse claim on OCT No. 46641 in regards to the 220 square meters of the LAND sold to him.

"On August 1, 1955, DEFENDANTS also caused an adverse claim to be annotated on the same title in regards to the DISPUTED PROPERTY.

"Another adverse claim was annotated by DEFENDANTS on January 2, 1957.

"On October 1, 1969, the sales to Calongcagon, to Maria Estaris, and to DEFENDANTS were annotated on OCT No. 46641.

"On May 27, 1974, Laureana, Isidora, and Aurelia, as children of TARCELA, together with Anselma and Cresencia, as TARCELAS'S grandchildren (collectively called PLAINTIFFS), filed suit (CASE BELOW) against DEFENDANTS for the recovery of the DISPUTED PROPERTY.

"x x x x x x x x

"We view the situation as one where the equities are in favor of DEFENDANTS, because they and their predecessors-in-interest have been in possession of the DISPUTED PROPERTY for 36 years.

"x x x x x x x x

"When the DISPUTED PROPERTY was sold with the knowledge and consent of Laureana, Isidora, and Aurelia, they had, in effect, repudiated their inheritances, and the loss by prescription of the inheritances, even if then existent, started to commence.

"Calongcagon and his successors-in-interest, including DEFENDANTS, acquired the DISPUTED PROPERTY on May 26, 1938 through Exhibit B, the sale executed by Rufino. There can be no doubt that Calongcagon and Maria Estaris (who died in 1955) took possession of the DISPUTED PROPERTY under claim of title up to 1948. x x x.

"Calongcagon and his successors-in-interest began their possession of the DISPUTED PROPERTY with a just or colorable title. Rufino executed the Deed of Sale (Exhibit B) alleging formal ownership of the DISPUTED PROPERTY although he was acting for the heirs of MARGARITA whom he believed were the actual owners, in a document also signed by Laureana, Isidora, and Aurelia, as conforming to the sale. x x x.

"x x x Calongcagon and his successors-in-interest had been in possession of the DISPUTED PROPERTY from May 26, 1938 to May 26, 1974, or for a period of 36 years. x x x.

"It is worthwhile noting that, according to Rufino, the heirs of TARCELA had partitioned Lot No. 1, without partitioning the LAND (Lot No. 2). That is an indication that PLAINTIFFS had, at some time in the past, conceded that the LAND, including the DISPUTED PROPERTY, was no longer theirs to claim and partition. After all, they had signed- their conformity in Exhibit B.

"x x x x x x x x

"In the present case, it is clear to Us that PLAINTIFFS are chargeable with laches. Rufino Tambot is their only brother and the oldest. He testified for the DEFENDANTS and stated that after their mother TARCELA died, knowing that of the two lots included in OCT 46641, only Lot 1, belonged to their mother while Lot 2, the DISPUTED PROPERTY, belonged to MARGARITA, their mother's sister, he and PLAINTIFFS partitioned only Lot 1 among themselves. He also explained that the reason OCT 46641 was issued in his mother's name alone was because by the time it was issued, MARGARITA had already died. That was also why when the DISPUTED PROPERTY was initially sold to Calongcagon on May 26, 1938, besides the heirs of MARGARITA, he had to sign the Deed of Sale, which was also signed by and conformed to by Laureana, Isidora, and Aurelia (Exhibit B).

"DEFENDANTS had enclosed the DISPUTED PROPERTY first with barbed wire and then with hollow blocks, although the latter was not completed. And they had also planted banana and other fruit trees and harvested the fruits. Laureana testified that she knew that the taxes were being paid by DEFENDANTS and that PACETES had constructed a house on the LAND. However, PLAINTIFFS did nothing from 1938, and waited only until May 27, 1974, to vindicate their alleged rights to the DISPUTED PROPERTY. x x x." (pp. 19-26, Rollo.)

The main argument of the petitioners in their petition for review of the decision of the Court of Appeals is that the Court of Appeals erred in holding that they (petitioners) had lost their right to recover the land from the private respondents by laches and that the latter, on the other hand, have acquired title to it by acquisitive prescription. Petitioners allege that the defense of prescription was not alleged by the private respondents in their answer to the complaint in the court below, and that, in any case, as the property is registered under the Torrens system, it may not be acquired by prescription.

The records show, however, that the defense of laches and/or prescription was in fact pleaded in the private respondents' answer to the complaint in Civil Case No. 2693 of the Court of First Instance of Pangasinan, as follows:

"3. That the defendants have been in actual and peaceful possession of the land and without interruption for more than eighteen (18) years now;

"4. That the defendants' cause of action has already been barred by the Statute of Limitations." (p. 5, Rollo.)

Furthermore, the trial court, in its statement of the case, observed:

"x x x The defendants likewise alleged in their answer and also in their memorandum that even granting that the plaintiffs still have a right to claim the same from the defendants, [it] have (sic) long prescribed since the defendants have been in possession of this parcel of land from July 27, 1955 to the present. " (p. 18, Record on Appeal.)

The Court of Appeals' ruling that the private respondents, by continuous, open, and adverse possession of the land for more than thirty-six (36) years as owner, had acquired title through prescription and that the petitioners' title is not protected by Section 46 of the Land Registration Act (which provides that a registered owner's title may not be lost through prescription) because the petitioners are not the registered owners of the land in question, finds support in various decisions of this Court.

In *Wright, Jr., et al. vs. Lepanto Consolidated Mining Co.*, 11 SCRA 508, where the mining company's possession of the mining claims under color of title began since 1936 while the appellants whose father had been the patentee of those claims did not lift a finger to assert their title or right for over 25 years, this Court held:

"x x x Assuming that Albert P. Wright ever held a Torrens title to the claims (which is not adequately shown), and that his ownership and that of his heirs may not be defeated by prescription, still those rights have become barred by their inactivity and laches for nearly thirty years. This long inaction, coupled with renewed activity

after total destruction of official records, strongly indicate an unmeritorious claim."

In *Heirs of Batiog Lacamen vs. Heirs of Laruan*, 65 SCRA 606, Laruan conveyed a parcel of land in La Trinidad, Benguet, to Batiog Lacamen in 1928 for P300. The deed was acknowledged before a notary in Baguio City, and immediately after the sale, Laruan delivered the certificate of title No. 420 to Lacamen who entered in possession of the land without securing a transfer certificate of title in his name. He introduced improvements and paid the taxes. After his death in 1942, his heirs remained in possession of the land and also paid the taxes. However, they discovered in 1957 that Laruan's heirs (Laruan had died in 1938) had obtained a new owner's copy of Certificate of Title No. 420 by alleging in a petition filed in court that their copy had been lost or destroyed. Lacamen's heirs sued for reconveyance. Laruan's heirs alleged that the sale to Lacamen was null and void under Act No. 2874 and Sections 145 and 146 of the Code of Mindanao and Sulu. This Court upheld the title of Lacamen and his heirs despite the invalidity of the sale.

"It has been held that while a person may not acquire title to the registered property through continuous adverse possession, in derogation of the title of the original registered owner, the heir of the latter, however, may lose his right to recover back the possession of such property and the title thereto, by reason of laches. Much more should it be in the instant case where the possession: of nearly 30 years or almost half a century now is in pursuance of sale which regrettably did not bear the approval of the executive authority but which the vendor never questioned during his life time. Laruan's laches extends to his heirs, the respondents-appellants herein, since they stand in privity with him."

Where a period of 37 years elapsed between the sale of land by the patentee (Mejia) to Zacarias Ciscar and the action of Mejia's heirs to recover it from the vendee (Gamponia) of an heir of Ciscar, the Court ruled that:

"While the defendant may not be considered as having acquired title by virtue of his and his predecessors' long continued possession (37 years), the original owner's right to recover back the 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." (*Mejia de Lucas vs. Gamponia*, 100 Phil. 277, 280.)

In *Vda. de Lima vs. Tio*, 32 SCRA 516, where the plaintiff's paraphernal property was sold in 1936 by her husband without her consent and her action to recover it was filed only in 1964, or after 28 years, we likewise ruled:

"It is now an established doctrine that inaction and neglect convert what otherwise could be a valid claim into a stale demand Such passivity in the face of what might have given rise to an action in court is visited with the loss of such a right. That in essence is what laches signifies. Nor does ignorance resulting from Inexcusable negligence suffice to explain such failure to file seasonably the necessary suit."

Similarly, in *Arquino vs. Aparis*, 22 SCRA 411, *Rodriguez vs. Rodriguez*, 20 SCRA 908, *Laurel-Manila vs. Galvan*, 20 SCRA 198, and *Miguel vs. Catalino*, 26 SCRA 234, this Court held that the ownership of registered land may be lost thru laches.

WHEREFORE, finding that the decision of the Court of Appeals is in accordance with law and applicable jurisprudence, the petition for review is denied for lack of merit. Costs against the petitioners.

SO ORDERED.

Narvasa (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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