

MUNICIPALITY OF CARCAR, PETITIONER, VS. COURT OF FIRST INSTANCE OF CEBU, BARILI BRANCH, ABUNDIO ALFAFARA, EUFEMIA TABAY, CONSOLACION NAVARRO, AND TEODORICO BARCOMA, RESPONDENTS.

G.R. No. L-31628. December 27, 1982

Ponente: RELOVA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/acbce57312db/>

RELOVA, J.:

On September 3, 1954, Judge Jose S. Rodriguez of the Court of First Instance of Cebu issued an order in Cadastral Case No. 1, Cadastral Record No. 58, Lot No. 592-A, Psd-3750, Carcar Cadastre, denying the petition of the Municipal Mayor of Carcar which prayed that herein respondents Abundio Alfafara and Consolacion Navarro be ordered to return to the Municipality of Carcar, Cebu a portion of land which, according to the petitioner, was erroneously included in the Transfer Certificate of Title No. 2183. Judge Rodriguez, in denying the petition of the Municipal Mayor of Carcar, stated that said petition is untenable "for it would defeat the object of the Torrens System which is to guarantee the stability, security and indefeasibility of the Torrens Title to the property."

Thereafter, the Municipality of Carcar filed a case, docketed as Civil Case No. R-3679, for Rein vindicacion against herein respondents Abundio Alfafara and Consolacion Navarro and two (2) others, namely: Eufemia Tabay and Teodorico Barcoma, before the Court of First Instance of Cebu. In this new complaint, herein petitioner asked the court, inter alia, to order the defendants to return to it the ownership and possession of the land known as Lot No. 592-A, Psd-3750 of the Carcar Cadastre.

Herein private respondents filed a motion to dismiss said Civil Case No. R-3679 (which became Civil Case No. 313-BC upon its transfer to the Barili Branch of the Court of First Instance of Cebu). Respondent court granted the motion and dismissed the said civil case in an order dated March 18, 1968, saying that:

"The Court believes that the ground of res judicata alleged in the said motion to dismiss is meritorious. The issue of ownership raised in the Cad. Case No. 1, Cad. Record No. 58, Lot No. 592-A, Psd--3750, of Carcar Cadastre which was decided by the Court of First Instance of Cebu, in its order of September 3, 1954 is identical to the present Civil Case, entitled "Municipality of Carcar, plaintiff, vs. Abundio Alfafara, et als., defendants, for there are identity of parties, identity of cause of action and identity of issues or relief. The order in said Cadastral Case No. 1 is res judicata in the present action for the conveyance of ownership of the parcel of land known as Lot No. 592-A, Psd-3750, of the Cad. Survey of Carcar, Cebu recovery of ownership being the main issue thereof. Further-more, the petitioner-movant Municipality of Carcar in Cad. Case No. 1, Record No. 58, and Lot No. 592-A, Carcar Cad. should have appealed from the order of the Court, dated September 3, 1954, (Annex 'A' to the motion to dismiss) rendered in said Cad. Case, which order refers to very Lot 592-A now in question."

Petitioner filed two (2) motions for reconsideration but the same were denied by herein respondent court in its order dated May 30, 1968.

Thereafter, petitioner filed a notice of appeal, appeal bond and a record on appeal. Respondent court in an order, dated August 18, 1968, disapproved the record on appeal on the ground that the same was filed out of time, saying that:

"Taking into account the period from the date of service of said order of March 18, 1968, upon Atty. Aldemita, one of the counsels of the plaintiff which was made on March 25, 1968 to the date of his filing of the Motion for Reconsideration on April 25, 1968, is thirty-one days, one day late of the reglementary period within which to file said motion for reconsideration; and taking into account the Motion for Reconsideration filed by Asst. Provincial Fiscal Benecio Arzadon, another counsel for the plaintiff, on May 21, 1968, the period of 56 days lapsed from the date of the receipt (March 25, 1968) of the order of the Court of March 18, 1968."

Hence, this petition for certiorari, with the Municipality of Carcar praying that the order of respondent court dated March 18, 1968 be declared null and void and that said public respondent order the reinstatement and trial of the case on the merits "in order to determine once and for all the validity of the respective claims of both parties."

Petitioner claims that the order of respondent court dismissing the case purely on the strength of a motion to dismiss is null and void ab initio for the reason that it was not given its day in court and thus, did not have the opportunity to prove the material allegations of the complaint concerning the ownership of Lot No. 592-A; that petitioner was precluded from proving by documentary evidence the fraudulent inclusion of subject property in the reconstituted Title No. R. O. -809 (0-4223); that petitioner was precluded in proving that respondents were only entitled to Lot No. 592-B after subdivision of Lot No. 592 into two (2), known as Lots Nos. 592-A and 592-B, Psd-3750; and, that the questioned order of respondent court did not only deprive petitioner of its property without due process of law, but it also enriches the private respondents to the prejudice of petitioner.

We are not persuaded. When respondent court dis-approved petitioner's record on appeal on August 18, 1968, the latter should have filed a petition for mandamus within a reasonable time. As to what would constitute a reasonable time "it is apparent that the delay in ordinary cases should not be more than the longest period allowed in the lower court for the party to take action, which is thirty days. x x x It is well settled that laches in making an application for a writ of mandamus affords sufficient cause for its denial." (Cortes vs. CFI of Capiz, 52 Phil. 214.).

Laches has been 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. (Sotto vs. Teves, 85 SCRA 154).

In the case at bar, it was on March 18, 1968 when respondent court dismissed Civil Case No. R-3679 and it was on August 18, 1968 when petitioner's record on appeal was disapproved. By failing to act until February 14, 1970 when this petition for certiorari was filed, petitioner was guilty of laches for not having taken action seasonably. Petitioner's long inaction for one and one-half years is certainly tantamount to laches and inexcusable neglect that it should be barred from asserting its claim at all.

ACCORDINGLY, this petition for certiorari is hereby DISMISSED and the writ of preliminary injunction issued by this Court on February 17, 1970 is dissolved.

SO ORDERED.

Melencio-Herrera, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.
Teehankee, (Chairman), in the result.

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.