

**MERCEDES U. DE GUZMAN, FRANCISCO P. DE GUZMAN (DECEASED)
NOW HIS HEIRS, REPRESENTED BY FELICITACION G. ROXAS
(DAUGHTER), PETITIONERS, VS. THE HONORABLE COURT OF
APPEALS (SIXTH D...**

G.R. No. L-47378. February 27, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

This is one of the many unfortunate cases where a dispute over property rights has marred the amity that should characterize the Filipino family, which the Constitution seeks to strengthen as a basic social institution. Regrettably, the adage that blood is thicker than water is not always true. There are times when that amalgam is diluted and so enervated by the venom of misunderstanding, if not cupidity, turning affectionate siblings into hostile strangers. Rejected then are memories of a more amiable past when they sat together as children at the foot of a common parent, learning tender lessons of selflessness and sharing.

This particular case arose from a complaint for partition of a 3-hectare parcel of unregistered land in Talisay, Batangas, filed in 1973 by the herein respondents against their sister and her husband, the present petitioners. At the pre-trial conference, the parties stipulated that they were the sole heirs of their mother, Teofila Manimtim, who died on November 7, 1923, without a will; that the said land was sold by her two days before her death with right of repurchase within seven years; that the defendants redeemed the said property on July 23, 1930; that the tax declaration on the land in favor of Teofila Manimtim was then canceled and another one was issued in the name of Francisco P. de Guzman; and that since then the real estate taxes thereon had been paid by the defendants.[1] On the basis of this stipulation of facts, the following issues were submitted by the parties for resolution by the trial court:

- Whether under the deed of repurchase, the ownership of the land in dispute was vested in the defendants or in all the heirs of the deceased Teofila Manimtim; and
- Assuming arguendo that the repurchase by the defendants was made for and in behalf of all the heirs, whether or not, as alleged by defendants, they became the owners of the property by virtue of prescription through adverse, actual, continuous, public and exclusive possession and cultivation and whether or not, as alleged by defendants, plaintiffs are guilty of laches and estoppel.[2]

At the trial, the plaintiffs waived the presentation of their evidence in chief, relying on the stipulation of facts, but later called rebuttal witnesses. The defendants, for their part, sought to prove that the land had been resold to them exclusively and that in any event they had acquired ownership over it under the rules of prescription, laches and estoppel.[3]

In its decision of December 11, 1974, the trial court held that the repurchase could not have been made by the defendants by themselves alone because the right belonged in common to the heirs of Teofila Manimtim. This

was true even if it were assumed that the vendee a retro had intended to sell back the land to the defendants only, as the repurchase was subject to the limitations of the Civil Code and the stipulations in the original contract. Possession as a fact was not held exclusively by the defendant spouses but shared with Antonio M. Austria, who remained in the disputed land until 1971. As for the tax declarations in the name of the defendants, these could not be considered proof of ownership or, indeed, even of adverse possession. The trial court ruled that the cases invoked by the defendants, to wit, *Ecal v. Ecal*,^[4] *Director of Lands v. Abantao*,^[5] and *Austria v. Laurel*,^[6] were not applicable because of certain factual and legal differences.

Appealed to the Court of Appeals, the said decision was affirmed in toto^[7] on September 29, 1977, and the motion for reconsideration was denied in a resolution dated November 22, 1977. The petitioners are now before us on certiorari.

In their first assignment of error, the petitioners fault the trial court for having allowed amendment of the complaint that they claim changed the theory of the case after the answer had been filed. We see no such change. The amendment was subject to the discretion of the court and this discretion was not abused or improperly exercised because the amendment did not change the plaintiffs' original posture. Their basic theory was that they were co-owners of the land in dispute, which was in fact the reason they had filed their complaint for its partition. This theory was not substantially altered by the amendment, which added to the original allegation that one of the plaintiffs administered, cultivated and developed the property. They had never originally asserted that the defendants were in exclusive possession of the disputed land, and the amendment did not so aver.

It was not necessary for the respondents to prove at the trial that they were entitled to the partition of the disputed property as co-owners thereof by right of intestate succession. The reason is that these matters were already covered by the above-mentioned stipulation of facts. The respondents were willing to submit the issue for resolution by the trial court without presentation of further proof. The stipulated facts were already deemed admitted by the parties.

The trial court was also correct in holding that the repurchase of the land in 1930 was subject to the specified condition of the pacto de retro concluded in 1923, to wit, that the repurchase was to be made by the vendor or her successors. Obviously, petitioner Mercedes de Guzman was not the only successor, and her husband was not even an heir, of Teofila Manimtim. A sale during the period of redemption to any other person other than the heirs of the deceased mother, as co-owners of the subject land, could not have been made by the vendee a retro. Any of the co-owners could have successfully invalidated such a transaction.

Concerning the petitioners' third assignment of error, we cannot over-emphasize the principle that this Court is not a trier of facts. We review the factual findings of the lower courts only when there appears to be a grave abuse of discretion or it is shown that they are not supported by substantial evidence. We do not find such a flaw in this case. On the contrary, we note from the decision of the trial court, which the respondent Court of Appeals has affirmed, that there was ample evidence of the petitioners asserting an adverse and exclusive claim of ownership over the disputed land only from 1973. Before that date, they had acknowledged, expressly and tacitly, the rights of the private respondents as co-owners of the land in question.

The petitioners' claim of acquisitive prescription by reason of uninterrupted and adverse possession since 1930, or for 43 years, must be rejected. Significantly, the petitioners make much of one of the respondent's statement that they overdid Rip Van Winkle, "because Rip Van Winkle slept only for twenty years x x x but we slept for forty-three years," which they quote from the record.^[8] To say the least, we find it censurable, as smacking of bad faith, that they did not, in fairness, continue with the immediately succeeding sentence. The next statement read: "But we admit that we slept on the land, not outside the land."^[9] Such suppression of a very meaningful

qualification sharpens the contrast between the credibilities of the parties and further weakens the petitioners' case against the respondents.

Article 494 of the Civil Code provides that prescription does not run against a co-owner "so long as he expressly or impliedly recognizes the co-ownership." As the adverse claim in this case was found by the trial court to have been made by the petitioners only in May 1973, no acquisitive prescriptive rights had as yet attached to the petitioners when the complaint for partition was filed against them in June 1973. By the same token, laches or estoppel cannot be invoked against the private respondents because they were not sleeping on their rights as long as the co-ownership continued to be recognized by the herein petitioners. To quote from one of the respondents:

"We, the plaintiffs (private respondents) in this case are prepared to admit that we slept like Rip Van Winkle as Atty. Amador Roxas said, and we admit that we even overdid Rip Van Winkle because Rip Van Winkle slept only for twenty (20) years x x x but we slept for forty-three years. But we admit that we slept on the land, not outside the land." [10]

Elaborating, he declared:

"We merely followed the custom of the people among brothers and sisters. It is not usual to mistrust each other. That is the meaning of the statement that I made when I said it is true we slept, but it is not the sleep that is understood by the defendants (petitioners herein). We slept because we knew all along that the defendants (petitioners) would not cheat us, would not deny us our right with respect to the land, sir." [11]

In *Ecal v. Ecal*, [12] the Court of Appeals held through then Associate Justice Fred Ruiz Castro:

"Under Article 1514 of the old Civil Code and Article 1612 of the new Civil Code, 'if several persons, jointly and in the same contract should sell an undivided immovable with the right to repurchase, none of them may exercise this right for more than his respective share. The same rule applies if the person who sold immovable alone has left several heirs, in which case each of the latter may only redeem the part which he may have acquired.' Should one of the co-owners or co-heirs succeed in alone redeeming the whole property, such co-owner or co-heir shall be considered as a mere trustee with respect to the shares of his co-owners or co-heirs; accordingly, no prescription will lie against the right of any co-owner or co-heir to demand from the redemptioner his respective share in the property redeemed, which share is subject of course to a lien in favor of the redemptioner for the amount paid by him corresponding to the value of the share."

The applicable provision was Article 1514 of the old Civil Code, which was reproduced verbatim in the new Civil Code as Article 1612, reading as follows:

"Art. 1612. If several persons, jointly and in the same contract, should sell an undivided immovable with a right of repurchase, none of them may exercise this right for more than his respective share.

"The same rule shall apply if the person who sold an immovable alone has left several heirs, in which case each of the latter may only redeem the part which he may have acquired."

There is nothing in the above provision suggesting that it is applicable only to registered land and does not cover unregistered land like the property in question. Obviously, we cannot read any distinction into the law where it is not obvious or even obviously intended. In fact, the private respondents' case is even stronger than in *Ecal* because the redemptioner there repurchased the property in his own right. In this case, there is the express admission from petitioner Mercedes de Guzman that she was repurchasing the property in question not for herself alone but for the other co-owners. [13]

The *Abantao* case, [14] also invoked by the petitioners, is not applicable because the factual antecedents are different. There was no exercise in that case of the right of repurchase by one co-owner that inured to the advantage of the other co-owners because the period for the redemption of the property after it had been acquired

by the government at a tax sale had already expired. Indeed, it was only after twelve years that one of the heirs offered to, and actually did, buy back the property from the government. She did so, however, in her own personal capacity and not by virtue of a right of redemption, and certainly not as a co-owner. In the instant case, it has been established that Mercedes de Guzman exercised the right of repurchase during the stipulated period of seven years and in her capacity as a co-owner.

The case of *Austria v. Laurel*,^[15] is also not in point because although there was here a categorical rejection by the defendant of the plaintiff's claim of ownership, the latter took all of seventeen years to assert his right. By contrast, the petitioners in the instant case, according to the evidence adduced, asserted their exclusive claim of ownership only in May 1973, or barely a month before the partition case was instituted by the private respondents.

There are abundant authorities to support the holding of the court a quo that tax declarations are not conclusive evidence of ownership or even claims of adverse possession.^[16] While it was not denied that the petitioners paid the real estate taxes on the land, the payment came presumably from the fruits thereof, which they occasionally shared with the private respondents. Significantly, it was also established that respondent Austria stayed in the disputed land for many years and enjoyed some of its proceeds as a matter of right and not by tolerance or charity on the part of the petitioners.^[17]

We are satisfied with the factual findings of the trial judge, as affirmed by the Court of Appeals, and see no reason for disturbing them. We also sustain the legal conclusions of the respondent court as a correct interpretation and application of the pertinent law and jurisprudence.

What we see here is a deplorable attempt on the part of the petitioners to deprive the private respondents of their lawful shares in the property derived by them from their mother, and through a method hardly worthy of a sister. The argument that the private respondents have by their neglect forfeited whatever rights they might have had — feeble enough as it is — becomes all the more unseemly among members of the same family, where love normally takes precedence over law. We are saddened by this regrettable case but, even so, are gratified by the results we reach today. Happily, it proves once again that this is a Court not only of law but also of justice.

WHEREFORE, the appealed decision is affirmed in toto, with costs against the petitioners.

SO ORDERED.

Yap, (Chairman), Narvasa, Melencio-Herrera, Feliciano, Gancayco, and Sarmiento, JJ., concur.

[1] Orig. Rec. on Appeal, pp. 29-30.

[2] Ibid., pp. 30-31.

[3] Id., pp. 34-38, 48, 51-52.

[4] CA-G.R. No. 25469-R, November 29, 1964.

[5] 68 SCRA 406.

[6] 82 Phil. 780.

[7] Rollo, pp. 53-63.

[8] Rollo, pp. 43, 180.

[9] TSN, April 3, 1974, pp. 108-109.

[10] *supra*, underscoring supplied.

[11] Brief for Private Respondents, p. 41.

[12] *Supra*.

[13] TSN, December 19, 1973, pp. 49-50.

[14] *Supra*.

[15] *Supra*.

[16] *Camo v. Riosa Boyco*, 29 Phil. 437, citing *Evangelista v. Tabayuyong*, 7 Phil. 607, and *Elumbaring v. Elumbaring*, 12 Phil. 384; *Tuason v. Villanueva*, 104 Phil. 643; *Bañez v. Court of Appeals*, 59 SCRA 71; *Masaganda v. Argamosa*, 109 SCRA 53; *Municipality of Santiago, Isabela v. Court of Appeals*, 120 SCRA 734; *Director of Lands v. Court of Appeals*, 133 SCRA 701.

[17] CFI Decision - Orig. Rec. on Appeal, pp. 52-54; Amended Complaint, par. 6, Orig. Rec. on Appeal, p. 16.

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