

**HEIRS OF BALBINO HIJOSA, REPRESENTED BY JESUS HIJOSA,
PLAINTIFFS-APPELLANTS, VS. AMBROSIO HALLEGADO (DECEASED),
REPRESENTED BY LOURDES H. SUPADOR, FOR HERSELF AND AS
REPRESENTAT...**

Ponente: DIY, J.

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DIY, J.:

Before Us is an Appeal from the rendered Decision[1] of Branch 16, Regional Trial Court (RTC) of Roxas City dated October 6, 2006, in Civil Case No. V-6607, for Recovery of Possession, Ownership, and Damages regarding real property, the dispositive portion of which reads as follows:

WHEREFORE, the complaint is ordered dismissed for being barred by prescription and laches, and for lack of evidence to substantiate the same.

The counterclaims and all other incidental claims are likewise dismissed.

Costs to plaintiffs.

SO ORDERED.

The Antecedents

The landholding subject of this case is situated at Poblacion Ilaya, Dumarao, Capiz, designated as Cadastral Lot 3051 and Lot 3052, Dumarao Cadastre, having an approximate area of 10,381 square meters (hereinafter collectively referred to as the subject landholding).

Version of the Plaintiffs-Appellants

In their amended complaint,[2] plaintiffs-appellants allege that they are the heirs of Balbino Hijosa, who, during his lifetime, owned a parcel of land which he inherited from his father Basilio Hijosa. The parcel of land was formerly known as Assessor's Lot No. 52, situated at the Poblacion of Dumarao, Capiz and covered by Tax Declaration No. 291, which has an approximate area of 10,381 square meters. Under the Group Settlement Survey and Mapping (GSSM), the same parcel of land was identified as Lot 708. When the Municipality of Dumarao was placed under Cadastral Survey, the same parcel of land was identified as Cadastral Lot No. 3051 and Cadastral Lot No. 3052, Dumarao Cadastre.

Plaintiffs-appellants were born and raised in the subject landholding.

In 1950, plaintiffs-appellants' parents and some of the latter's children moved to Mindanao. Providencia Hijosa-Protasio was left behind. She stayed in the aforesaid landholding. In 1953, she and her husband moved to Mindanao.

In 1992 Providencia Hijosa-Protasio and her sister, Nazarena Hijosa, returned to Dumarao, Capiz and discovered that said landholding was being occupied by several persons including defendants-appellees who informed the

sisters that they had bought the land from Eustaquio Hidrosollo. However, the surviving spouse of the latter executed an affidavit that her husband Eustaquio Hidrosollo, during his lifetime, never purchased a parcel of land from Balbino Hijosa. In the same affidavit, she waived, relinquished, and quitclaimed whatever right, interest, and participation her husband had over any parcel of land or property belonging to Balbino Hijosa.

Demands to vacate and turn over possession of the land were made upon defendants-appellees but they refused. Angel and Ambrosio Hallegado have been occupying Lot No. 3052 with an area of 1,229 square meters, --while Inocencia Coching has been occupying Lot No. 3051 with an area of 4,032 square meters.

On May 17, 1974, the predecessor-in-interest of Inocencia Coching unlawfully secured a patent in the form of Original Certificate of Title No. P-3125 of the Register of Deeds for Capiz describing the same as Lot No. 697, Gssm-06-000001, which is null and void ab initio.

Plaintiffs-appellants pray that they be declared owners of the subject landholding and that defendants-appellees be ordered to turn over possession of the subject landholding in favor of plaintiffs-appellants.

On August 24, 2007, Providencia Hijosa-Protasio, who served as representative of plaintiffs-appellants, died.[3] Her younger brother, Jesus Hijosa, now serves as representative of plaintiffs-appellants.[4]

Version of the Defendants-Appellees

Defendant-appellee Ambrosio Hallegado died on March 21, 1997. He was substituted by his heirs, namely: Concepcion Hallegado, Teresita Coronel, Lourdes H. Supador, Magdalena H. Navarro, Asuncion H. Espinosa, Alicia H. Alicante, Cecilia Hallegado, Ellen H. Dulla, Antonio Hallegado and Ramon Hallegado.[5]

Prior to the death of Ambrosio Hallegado, he filed his answer to the original complaint. Said answer remains as his answer to the amended complaint.

Said defendant-appellee Ambrosio Hallegado specifically denied the ownership by Balbino Hijosa of Lot 708 alleging that Ambrosio Hallegado bought the property from Eustaquio Hidrosollo on February 5, 1953, had the same registered and declared for taxation purposes in his name, paid the taxes thereon, and immediately took possession thereof. He had been in possession of the property since then.

Plaintiffs-appellants' cause of action, if any, has prescribed and had been barred by laches.[6]

In defendant-appellee Angel Hallegado's amended answer to the original complaint, he denies knowledge of plaintiffs-appellants' circumstances and the identity of the land they are claiming because the lots in Dumarao then did not have cadastral lot numbers. Balbino Hijosa had no property in Poblacion, Dumarao, Capiz before they transferred to Mindanao. The only property owned by Balbino Hijosa was a 122-square meter residential lot which he purchased from Julian Emilio and in turn later sold to Delia Parrenas. Said residential lot adjoins the property that Angel Hallegado's father, Ambrosio Hallegado, purchased from Eustaquio Hidrosollo.

The other defendants-appellees all surnamed Coching in their amended answer with counterclaim deny knowledge about plaintiffs-appellants' circumstances, alleged ownership of the subject parcels of land, and transfer to Mindanao and return to Capiz, as well as their demand upon defendants-appellees (Cochings) to vacate the land the latter presently occupy consisting of 4,032 square meters, which said defendants-appellees (Cochings) inherited from their father, Jose Coching. This lot is owned by them, not plaintiffs-appellants.

Plaintiffs-appellants have no cause of action against them as said defendants-appellees (Cochings) do not possess any lot belonging to plaintiffs-appellants. Plaintiffs-appellants have no property in Dumarao, Capiz. The property they presently occupy is declared for taxation purposes, in the name of defendants-appellees' (Cochings) father, Jose Coching. Portion of said property is identified as Lot 697, Dumarao Cadastre, situated in Ilaya, Dumarao,

Capiz, and covered by Original Certificate of Title No. P-3125 issued by the Register of Deeds for Capiz in May 1974 in favor of their father. Jose Coching died intestate on September 11, 1980 in Dumarao leaving the parcel of land which by law of intestacy and succession, was inherited by his ten children who are said defendants-appellees (Cochings).

The action of plaintiffs-appellants, if any, is barred by prescription and laches. Furthermore, plaintiffs-appellants failed to comply with the mandatory provisions of P.D. 1508 and R.A. 7160 before bringing this action in court; hence, it is dismissible.[7]

On October 6, 2006, the RTC rendered the assailed Decision.

Hence, this appeal based on the following assigned errors:

-I-

THE COURT A QUO ERRED IN REACHING THE CONCLUSION THAT DEFENDANTS-APPELLEES WERE ENTITLED TO THE OWNERSHIP AND POSSESSION OF LOT NO. 3051 AND LOT NO. 3052 DESPITE THE NOT TOO RELIABLE PIECES OF EVIDENCE ADDUCED;

-II-

THE COURT A QUO COMMITTED A GREAT ERROR IN ORDERING THE DISMISSAL OF THE COMPLAINT FOR ALLEGEDLY BEING BARRED BY PRESCRIPTION AND LACHES AND FOR THE SUPPOSED LACK OF EVIDENCE TO SUBSTANTIATE THE SAME.

The Ruling of the Court

This Court shall address the above-mentioned assigned errors holistically since they are interrelated. In arriving at Our ruling, We shall resolve the following factual and legal matters:

1).

Which between the sets of evidence submitted by both parties deserve greater weight preponderantly in establishing the right of ownership and possession of the subject landholding?

2).

Has acquisitive prescription set in over the subject landholding?

3).

Has the claim of plaintiffs-appellants been barred by laches?

Which between the sets of evidence submitted by both parties deserve greater weight preponderantly in establishing the right of ownership and possession of the subject landholding?

Has acquisitive prescription set in over the subject landholding?

Has the claim of plaintiffs-appellants been barred by laches?

Which between the sets of evidence submitted by both parties deserve greater weight preponderantly in establishing the right of ownership and possession of the subject landholding?

We rule in favor of defendants-appellees.

The pieces of documentary evidence on record for both parties are herein summarized as follows:@

Evidence for the plaintiffs-appellants

Evidence for the defendants-appellees

1)

An unsigned Tax Declaration of Real Property (Tax Dec. 6019) in the name of Basilio Hijosa;[8]

1)

Deed of Absolute Sale dated February 6, 1953 from Eustaquio Hidrosollo;[9]

2)

Affidavit of Maxima Hidrosollo dated April 2, 1992 but subscribed and sworn to before Notary Public Paterno Balad-on on March 2, 1992 or one (1) month before its execution;[10]

2)

Tax Declaration No. 1766 in the name of E. Hidrosollo;[11]

3.)

A private document in the vernacular purportedly executed by and among Maria Mercado, Santiago Rubrico, Emilio Rubrico, Clemencia Mercado, and Basilio Hijosa dated December 1, 1913;[12]

3)

Tax Declaration No. 6018 in the name of E. Hidrosollo;[13]

4)

The Plan prepared by Geodetic Engineer Benbenuto A. Yngcong;[14]

4)

Tax Declaration No. 9754 in the name of A. Hallegado;[15]

5)

Certificate of Death of Balbino Mercado Hijosa;[16]

5)

Tax Declaration No. 9755 in the name of Mansueto Silva;[17]

6)

Certification issued by the Records Officer II of the Register of Deeds for Capiz that the copy of the Deed of Absolute Sale executed by Eustaquio Hidrosollo in favor of Ambrosio Hallegado cannot be found from the extant files of the said Office despite diligent efforts;[18]

6)

Extrajudicial Settlement of the Estate of E. Hidrosollo found on page three (3) of the instrument awarding to

Maxima Hidorsollo the 1st portion found on page one (1) of the document (Settlement), which portion is the mother lot of the lots sold to A. Hallegado and Mansueto Silva;[19]

7)

Certification issued by the National Archives that there is no copy of the Deed of Sale allegedly executed by Eustaquio Hidrosollo in favor of Ambrosio Hallegado on file with the said Office;[20]

7)

Certification of Tax Payments of the portion sold and declared in the name of A. Hallegado issued by the Municipal Treasurer of Dumarao, Capiz;[21]

8)

Certification issued by the Clerk of Court of the Regional Trial Court of Roxas City that there is no Deed of Sale notarized by Atty. Mariano M. Malicudio existing in the records of the said Office.[22]

8)

Tax Declaration issued in the name of Melecio Hidrosollo;[23]

9)

Tax Declaration No. 9753 in the name of Eustaquio Hidrosollo;[24]

10)

Deed of Absolute Sale dated November 10, 1966 executed by Julian Emilio in favor of Angel Hallegado covering a parcel of land with an area of 122 square meters, situated in Poblacion Ilaya, Dumarao, Capiz, which lot was already sold to Delia Parrenas;[25]

11)

Deed of Absolute Sale in favor of Angel Hallegado dated June 30, 1978;[26]

12)

Deed of Absolute Sale in favor of Angel Hallegado dated April 6, 1989;[27]

13)

Affidavit of Eustaquio Hidrosollo of 3,154.5 square meters mentioned in the Deed of Absolute Sale dated February 6, 1953 and another portion to Mansueto Silva as shown in Tax Declaration No. 9755;[28]

14)

Original Certificate of Title No. P-3125 covering Lot 697 in the name of Jose Coching. This lot has been designated as Cadastral Lot No. 3051 during the cadastral survey of Dumarao;[29]

15)

Tax Declaration Nos. 5942 for the year 1974; 159 for the year 1980; 9084 for the year 1982, all in the name of Jose Coching;[30]

16)

Assessment of Real Property No. 002-0163 covering Lot 3051 (697) for the year 1991;[31]

17)

Tax Receipt Nos. 8243426, 8243619, 9676020, 9675984, 3525872, 0990929, 3165097, 3165098, 6236591, 6185145, 0032262, 0050128, 0050127, 0962397 showing payment of real property taxes from 1974 to 2004;[32]

18)

Certification issued by the Municipal Treasurer of Dumarao, Capiz, dated August 17, 1995, that taxes had been fully paid up to 1995 for the property of Jose R. Coching in Poblacion Ilaya, Dumarao, Capiz;[33]

19)

Certification issued by the Municipal Treasurer of Dumarao, Capiz, dated January 13, 2004, that taxes had been fully paid up to 2004;[34]

20)

Survey Notification Card issued by Fernando Lopez, Geodetic Engineer of the DENR;[35]

Plaintiffs-appellants attack the validity of the untitled document of sale (item 1 in the table above, evidence for defendants-appellees) contending that the original copy of such instrument was not presented in court. Plaintiffs-appellants also point out the irregularity with respect to the notarization of said Deed of Sale since the Deed was notarized on February 6, 1953 but Residence Certificate No. 192055760 (which was supposedly presented by vendor Eustaquio Hidrosollo during notarization of said Deed of Sale) was dated February 19, 1953. Plaintiffs-appellants also posit that the Deed of Sale did not bear Maxima Hidrosollo's (wife of vendor Eustaquio Hidrosollo) conformity to the sale despite the fact that the object of sale "must have been" conjugal property and Maxima Hidrosollo was still alive when the transaction took place. One of the witnesses indicated in the subject Deed of Sale was Balbino Hijosa. However, plaintiffs-appellants dispute the same, arguing that Balbino Hijosa died on November 16, 1952, hence, he could not have possibly witnessed the same.

Plaintiffs-appellants also contend that the affidavit of Maxima Hidrosollo (item 2 in the table above, evidence for plaintiffs-appellants) stating that she had never bought any parcel of land from Balbino Hijosa and that she is waiving, relinquishing and "quitclaiming" whatever rights, interests and participation her late husband might have had over any parcel of land from Balbino Hijosa, effectively serves as plaintiffs-appellants proof of ownership of the subject landholding. To buttress this argument, plaintiffs-appellants invoke the ruling of the Supreme Court in the case of *Gerales vs. CA*[36] that "[a] notarized instrument is admissible in evidence without further proof of its due execution and is conclusive as to the truthfulness of its contents, although not absolute but rebuttable by clear and convincing evidence to the contrary." According to plaintiffs-appellants, defendants-appellees failed to rebut said affidavit.

As regards ownership and possession of Lot No. 3051 by defendants-appellees Cochings, plaintiffs-appellants argue that the Certificate of Title issued in favor of the Cochings is void since a free patent on the lot was issued despite the fact that it was a private property.

Plaintiffs-appellants also invoke the failure of defendant-appellee Inocencia Coching Balume to present documentary evidence regarding the sale by Mansueto Silva and Ambrosio Hallegado of Lot 3051 in favor of Inocencia Coching Balume's father, Jose Coching. Plaintiffs-appellants consider the reasoning given by Inocencia Coching Balume, that the documents were destroyed by Typhoon Undang, as a lame excuse.

Plaintiffs-appellants also state that it was error on the part of the RTC when it admitted certified photocopies of tax declarations and receipts without requiring the presentation of the original ones. Plaintiffs-appellants insist that this Court give the private document executed between Maria Mercado, Santiago Rubrico, Emilio Rubrico,

Clemencia Mercado, and Basilio Hijosa dated December 1, 1913 (item 3 in the table above, evidence for plaintiffs-appellants), the weight and credit it allegedly deserves since it is a clear indication of the extent of the properties belonging to Balbino Hijosa.

Plaintiffs-appellants have given Us a barrage of attacks alleging flaws or irregularities regarding the documentary evidence submitted or the pieces of evidence which were not submitted by defendants-appellees while offering very little to advance their own claim of ownership over the subject landholding. Such is a classic example of relying on the weakness of the evidence of defendants-appellees hoping that the failure of the evidence for plaintiffs-appellants to stand on its own merits would be left unnoticed. It is a well-entrenched evidentiary principle that he who alleges has the burden of proving the same.

It is settled that the quantum of proof necessary for a finding of civil liability is preponderance of evidence. Preponderance of evidence is defined as the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term “greater weight of the evidence” or “greater weight of the credible evidence”. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[37]

In the instant case, plaintiffs-appellants would have Us award ownership over the subject landholding based only on three key pieces of documentary evidence namely: 1.) An unsigned Tax Declaration of Real Property (Tax Dec. 6019) in the name of Basilio Hijosa; 2.) the Affidavit of Maxima Hidrosollo dated April 2, 1992 but subscribed and sworn to before Notary Public Paterno Balad-on on March 2, 1992 or one (1) month before its execution; and 3.) a private document in the vernacular purportedly executed by and between Maria Mercado, Santiago Rubrico, Emilio Rubrico, Clemencia Mercado, and Basilio Hijosa, dated December 1, 1913.

These pieces of evidence, even without opposition, are clearly insufficient to establish plaintiffs-appellants’ ownership over the subject landholding for the following reasons:

1.) Upon closer scrutiny of the Tax Declaration No. 6019 in the name of Basilio Hijosa, We find that the same is unsigned and there is nothing in said document bearing any indication that it was officially issued by the Municipal Assessor of Dumarao.

2.) The affidavit of Maxima Hidrosollo cannot be given weight because she was not presented as a witness for confrontation and cross-examination. Without confrontation and cross-examination, said affidavit is considered hearsay and inadmissible in evidence. The subject affidavit, at best, may be admissible as a written extrajudicial admission against Maxima Hidrosollo’s interest. But such admission may be admitted only against her interest and not against the interest of third parties like the herein defendants-appellees.

And even assuming *ex gratia argumenti* that such affidavit is admissible, it likewise cannot be given weight since said affidavit, in essence, only states that Maxima Hidrosollo does not have knowledge regarding any sale of land which took place between them (spouses Hidrosollo) and Balbino Hijosa. Said affidavit does not, in any way, indicate that the subject landholding actually belongs to Balbino Hijosa. Even assuming the contents of the affidavit were true, We cannot, in any reasonable way, relate it to plaintiffs-appellants’ claim that their predecessor-in-interest, Balbino Hijosa, is the actual owner of the subject landholding.

We can only surmise that Eustaquio Hidrosollo must have acquired the subject landholding from other sources or means and not from Balbino Hijosa. In consideration of the foregoing, the affidavit of Maxima Hidrosollo cannot be said to invalidate the sale between Eustaquio Hidrosollo and defendants-appellees and it likewise cannot serve as plaintiffs-appellants’ proof of ownership.

3.) The private document in the vernacular purportedly executed by and among Maria Mercado, Santiago

Rubrico, Emilio Rubrico, Clemencia Mercado, and Basilio Hijosa, dated December 1, 1913, essentially describes the partition of the signatories regarding the lot that said signatories allegedly inherited from their aunt Ynocensia Braganza. However, no evidence was presented as to how Ynocensia Braganza acquired ownership over the property. It was likewise unclear, basing from said document alone, if the landholding covered by the purported partition actually involves or encompasses the subject landholding.

The above-enumerated pieces of evidence, taken together, are nothing more than bare assertions of possession and occupation by plaintiffs-appellants' predecessor-in-interest. No evidence was introduced to substantiate the claim. General statements which are mere conclusions of law are insufficient to prove ownership. Proof of specific acts of ownership must be presented to substantiate their claim.

The undisputed fact of being in open, continuous, exclusive and notorious possession in the concept of owner of the subject landholding on the part of defendants-appellees since 1953, alone, has a significantly heavier evidentiary weight than the aforementioned pieces of evidence for plaintiffs-appellants.

But aside from that, defendants-appellees have on their side a multitude of documentary evidence (as enumerated in the table above, evidence for defendants-appellees) such as the Deed of Sale, Original Certificate of Title over Lot 3051, Real Property Tax Declarations, and Real Property Tax Receipts.

Although tax receipts and declarations are not incontrovertible evidence of ownership, they constitute proof that the holder has a claim of title over the property and are good indicia of possession in the concept of owner.

As held by the Supreme Court in the case of Republic vs. Alconaba, et al.:^[38]

While tax receipts and declarations are not incontrovertible evidence of ownership, they constitute at least, proof that the holder has a claim of title over the property. The voluntary declaration of a piece of land for taxation purposes not only manifests one's sincere and honest desire to obtain title to the property, but also announces an adverse claim against the State and all other interested parties with an intention to contribute needed revenues to the government. Such an act strengthens one's bona fide claim of acquisition of ownership.

x x x

While belated declaration of a property for taxation purposes does not necessarily negate the fact of possession, tax declarations or realty tax payments of property are, nevertheless, good indicia of possession in the concept of an owner, for no one in his right mind would be paying taxes for a property that is not in his actual or, at least, constructive possession.

Plaintiffs-appellants raise the irregularity of the notarization of the Deed of Sale in favor of the defendants-appellees. As to said argument, the Supreme Court has this to say:^[39]

x x x [A]ny irregularity in the notarization or even the lack of notarization does not affect the validity of the document. Absent any clear and convincing proof to the contrary, a notarized document enjoys the presumption of regularity and is conclusive as to the truthfulness of its contents.

Plaintiffs-appellants' claim that Balbino Hijosa died on November 16, 1952 whereas the instrument of sale on which his signature appears was executed on February 6, 1953, concluding that he could not have signed the same, likewise deserves scant consideration. To start off, Balbino Hijosa is only a witness to said instrument. He is not the vendor or vendee in the sale. Second, as the RTC correctly observed, the death certificate of Balbino Hijosa is inconclusive as to the latter's date of death since it was only filed on March 1, 2004 or more than fifty (50) years later after the alleged date of his death and after the case before the RTC was already filed. Moreover, the informant of the late registration death certificate is Susana Onio, a granddaughter of Balbino Hijosa, who stands to be benefitted by a favorable decision on the complaint.

It is likewise untrue that the RTC admitted mere certified photocopies of tax declarations and receipts without requiring the presentation of the original ones. Based on Our review of the Transcript of Stenographic Notes taken during trial, it is clear that defendants-appellees presented the original documents for comparison with the photocopies of the same. Counsel for plaintiffs-appellants, Atty. Angelito Inocencio, inspected the documents himself and stated that the same appeared as true and faithful reproductions of the originals.[40]

The allegation that the Original Certificate of Title over Lot 3051 is void since it was issued pursuant to a free patent when the lot to which it pertains is private property, is likewise bereft of merit. This is because plaintiffs-appellants miserably failed to establish that Lot 3051 was indeed private property when the free patent was issued. Again, they only presented bare assertions to advance this claim.

In view of the foregoing it is clear that the evidence for defendants-appellees greatly outweighs the evidence for plaintiffs-appellants.

Has acquisitive prescription set
in over the subject landholding?

We rule in the affirmative.

Prescription is another mode of acquiring ownership and other real rights over immovable property. It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse. Acquisitive prescription is either ordinary or extraordinary. Ordinary acquisitive prescription requires possession in good faith and with just title for ten (10) years. In extraordinary prescription ownership and other real rights over immovable property are acquired through uninterrupted adverse possession thereof for thirty (30) years without need of title or of good faith.[41] The governing relevant provisions of the Civil Code on prescription are hereby presented as follows:

Article 1106. By prescription, one acquires ownership and other real rights through the lapse of time in the manner and under the conditions laid down by law.

In the same way, rights and conditions are lost by prescription.

Article 1117. Acquisitive prescription of dominion and other real rights may be ordinary or extraordinary.

Ordinary acquisitive prescription requires possession of things in good faith and with just title for the time fixed by law.

Article 1134. Ownership and other real rights over immovable property are acquired by ordinary prescription through possession of ten years.

Article 1137. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith.

Article 1141. Real actions over immovables prescribe after thirty years.

This provision is without prejudice to what is established for the acquisition of ownership and other real rights by prescription.

(Emphasis Ours)

Plaintiffs-appellants contend that acquisitive prescription could not have set in because defendants-appellees' possession of the subject landholding is in bad faith and without just title. To prove this point, plaintiffs-appellants again banked on the flaws of the documentary evidence submitted by defendants-appellees, giving Us the impression that defendants-appellees knew all along that the subject landholding was owned by someone else

when they occupied the same.

This is an insipid asseveration and deserves scant consideration. Even a cursory reading of the aforecited provisions of the Civil Code clearly explains that possession in good faith and with just title is only necessary in the case of ordinary acquisitive prescription (ten [10] years).[42] The requirement of possession in good faith and with just title does not apply in the case of extraordinary acquisitive prescription (thirty [30] years).[43]

It is undisputed that defendants-appellees and their predecessors-in-interest have been in open, continuous, exclusive and adverse possession since 1953. It was only in 1992 when Providencia Hijosa-Protasio and her sister, Nazarena, returned to Capiz and it was only in 1995 when plaintiffs-appellants filed this case against the occupants of the subject landholding. Hence, even assuming *ex gratia argumenti* that the subject landholding was previously owned by Balbino Hijosa, and defendants-appellees were aware of such ownership, since they had been in uninterrupted adverse possession of the subject landholding for more than thirty (30) years, extraordinary acquisitive prescription in favor of defendants-appellees had already set in.

Has the claim of plaintiffs-appellants
been barred by laches?

We rule in the affirmative.

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 the presumption that the party entitled to assert his right has either abandoned or declined to assert it.[44]

Plaintiffs-appellants argue that they neither neglected the subject landholding nor failed to assert their rights over the same for an unreasonable and unexplained length of time. To advance this stand, plaintiffs-appellants assert that even while the late Providencia Hijosa-Protasio was in Mindanao, she gathered information regarding the whereabouts of the subject landholding. This explains why Providencia Hijosa-Protasio, together with her sister, Nazarena, immediately confronted the occupants of the subject landholding when they returned to Capiz in 1992.

Plaintiffs-appellants also aver that the requirements laid down in the case of *Palmera vs. Civil Service Commission*,[45] namely: (1) the complainant must have knowledge of the conduct of the defendant or of one under whom he claims, and (2) he must have been afforded an opportunity to institute suit, have not been met in this case. Hence, plaintiffs-appellants' claim cannot be said to have been barred by laches.

We disagree.

Worthy of note is the fact that the aforecited *Palmera* case is an action for reinstatement of a civil servant. In the said case, The Supreme Court held that the first requirement (i.e., the complainant must have knowledge of the conduct of the defendant or of one under whom he claims) is lacking. There was no formal communication with therein petitioner (*Palmera*) that he had already been dismissed from the service. As such, even if nine (9) years had already passed before *Palmera* commenced the action for reinstatement, the Supreme Court held that such claim is not barred by laches.

We cannot see how this ruling finds application in the present controversy.

Plaintiffs-appellants posit that they did not have knowledge of the conduct of the defendants-appellees, hence, their inaction. However, it appears that there is nothing preventing them from discovering the whereabouts of their alleged property as the same is an immovable unlike in the *Palmera* case where the petitioner's inaction was due to his reliance on the assurances made to him that he would be appointed to another position. As stated by

herein plaintiffs-appellants themselves, they all left for Mindanao in 1953 and returned to Capiz only in 1992. From that allegation alone, it appears that thirty-nine (39) years had passed. Plaintiffs-appellants never explained why they failed to even visit or discover the whereabouts of their alleged property. Information regarding the adverse possession of defendants-appellees could have easily been ascertained early on had they been vigilant. Plaintiffs-appellants likewise never appointed an administrator of their alleged property in their absence. It would seem that plaintiffs-appellants, even with the knowledge that they had no Torren's Title, expected the subject landholding to remain in the same state and condition as when they had allegedly left it, although a very long period of time had already lapsed.

All of these circumstances militate against plaintiffs-appellants' claim that they have not neglected or abandoned their alleged property.

As held by the Supreme Court:[46]

x x x Even granting appellants' proposition that no prescription lies against their father's recorded title, their passivity and inaction for more than 34 years (1928-1962) justifies the defendant-appellee in setting up the equitable defense of laches in his own behalf. As a result, the action of plaintiffs-appellants must be considered barred and the Court below correctly so held. Courts can not look with favor at parties who, by their silence, delay and inaction, knowingly induce another to spend time, effort and expense in cultivating the land, paying taxes and making improvements thereon for 30 long years, only to spring from ambush and claim title when the possessor's efforts and the rise of land values offer an opportunity to make easy profit at his expense. In *Mejia de Lucas vs. Gamponia*, 100 Phil. 277, 281, this Court laid down a rule that is here squarely applicable: Upon a careful consideration of the facts and circumstances, we are constrained to find, however, that while no legal defense to the action lies, an equitable one lies in favor of the defendant and that is, the equitable defense of laches. We hold that the defense of prescription or adverse possession in derogation of the title of the registered owner Domingo Mejia does not lie, but that of the equitable defense of laches. Otherwise stated, we hold that while defendant may not be considered as having acquired title by virtue of his and his predecessors' long continued possession for 37 years, the original owner's right to recover back the possession of the property and title thereto from the defendant has, by the long period of 37 years and by patentee's inaction and neglect, been converted into a stale demand.

(Emphasis Ours)

The aforecited jurisprudence finds perfect application to this case, added to the fact that the period of inaction by the herein plaintiffs-appellants is even longer than the periods mentioned in these Supreme Court Decisions. In consideration of the foregoing, We hold that laches had likewise set in, barring the alleged claim of plaintiffs-appellants.

In sum, the RTC's explanations for dismissing the complaint were very thorough, well-founded and well-reasoned. It is a well-entrenched doctrine that factual findings of the trial court are accorded the highest degree of respect and are considered conclusive between the parties. Though jurisprudence recognizes highly meritorious exceptions, none of them obtain herein which would warrant a reversal of the challenged decision.[47] This Court, therefore, accords deference to the trial court's appreciation of evidence.

WHEREFORE, premises considered, the instant appeal is DISMISSED. The October 6, 2006 Decision of Branch 16, Regional Trial Court of Roxas City is hereby AFFIRMED IN TOTO.

SO ORDERED.

Maxino, and Diy, JJ.; concur.

[1] Rollo, pp. 145-170.

[2] Record, pp. 348-355.

[3] Rollo, p. 109 (Certificate of Death of Providencia Hijosa-Protasio).

[4] Id., p. 111 (Resolution of the Court dated June 30, 2009 taking note of the death of Providencia Hijosa-Protasio and granting the Motion for Substitution of Party dated April 16, 2009).

[5] Record, pp. 207-210.

[6] Record, pp. 14-16.

[7] Record, pp. 400-408.

[8] Record, p. 258.

[9] Id., p. 538.

[10] Id., p. 259.

[11] Id., p. 540.

[12] Id., p. 260.

[13] Id., p. 542.

[14] Id., p. 261.

[15] Id., p. 544.

[16] Id., p. 675.

[17] Id., p. 546.

[18] Record, p. 677.

[19] Id., p. 547.

[20] Id., p. 678.

[21] Id., p. 551.

[22] Id., p. 680.

[23] Id., p. 553.

[24] Id., p. 554.

[25] Id., p. 595.

[26] Id., p. 595.

[27] Id., p. 595.

- [28] Id., p. 555.
- [29] Id., p. 641.
- [30] Id., pp. 642-644.
- [31] Record, p. 645.
- [32] Id., pp. 646-661.
- [33] Id., p. 655.
- [34] Id., p. 660.
- [35] Id., p. 668.
- [36] G.R. No. 85909, February 9, 1993.
- [37] Emilia Lim vs. Mindanao Wines and Liquor Galleria, G.R. No. 175851, July 4, 2012.
- [38] G.R. No. 155012, April 14, 2004.
- [39] Spouses Palada vs. Solidbank Corporation, et al., G.R. No. 172227, June 29, 2011.
- [40] TSN, June 23, 2005, pp. 8-11.
- [41] Gesmundo vs. Court of Appeals, G.R. No. 119870, December 23, 1999.
- [42] Articles 1117 and 1134, Civil Code.
- [43] Article 1137, Civil Code.
- [44] Heirs of Nieto vs. Municipality of Meycauayan, Bulacan, G.R. No. 150654, December 13, 2007.
- [45] G.R. No. 110168, August 4, 1994.
- [46] Miguel, et al. vs. Catalino, G.R. No. L-23072, November 29, 1968.
- [47] D'Aigle vs. People of the Philippines, G.R. No. 174181, June 27, 2012.

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