

CIPRIANO E. SAMONTE, FROILAN E. SAMONTE, LORENZO E. SAMONTE, TEODULA E. SAMONTE, CONSTANCIA E. SAMONTE, AND THE LATE MIGUEL SAMONTE AS REPRESENTED BY HIS HEIRS REMEDIOS B. SAMON...

G.R. No. L-44841. January 27, 1986

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This Petition for Review on Certiorari seeks the reversal of the Decision of respondent Appellate Court in CA-G.R. No. 55914-R affirming that of the Trial Court and declaring private respondents the owners of the lands in suit.

The antecedents of the case follow:

- In 1930, PLACIDA Espiritu was the owner of five (5) parcels of rice land situated in Dingras, Ilocos Norte.
- Sometime during the last days of 1930, according to petitioners (Folio-8), or on September 7, 1931, according to private respondents (Exhibit "7"), those five parcels were transferred from PLACIDA to VICTORIA Mendoza (Folio-142).
- Two of the five parcels were subsequently washed away by a river (Folio-10, Exhibit "1-B"). The remaining three parcels constitute the property subject of this case (the DISPUTED PROPERTY).
- PLACIDA passed away in December, 1941 (Folio-9), the petitioners herein being her heirs.
- VICTORIA died on April 19, 1937 (Exhibit "7"), succeeded by her mother Salvadora Feri, who died in 1947 (Folio-9), succeeded by her daughter BENILDA Mendoza (sister of VICTORIA) who died on 11 November 1962 (Respondents' Brief, p. 3), and was succeeded by her adopted children, the private respondents herein (Folio-9).
- There is documentary evidence that BENILDA had claimed ownership of the DISPUTED PROPERTY on May 23, 1947 (Exhibit "7"), reiterated on December 2, 1952 (Exhibit "6").
- On April 3, 1970, petitioners instituted Case No. 4569-11 of the then Court of First Instance of Ilocos Norte, which started the present proceedings, their claim being for the return to them of the DISPUTED PROPERTY for the reason that possession thereof was transferred to VICTORIA by their mother PLACIDA only by way of antichresis. Private respondents defended, stating that VICTORIA had purchased the DISPUTED PROPERTY on September 7, 1931.

Previous to that case, Civil Case No. 3630-III was filed before the Court of First Instance of Ilocos Norte by petitioners for the recovery of the DISPUTED PROPERTY but the same was dismissed without prejudice.

- On December 28, 1973, the Trial Court dismissed petitioners' complaint on the ground that BENILDA having claimed ownership of the DISPUTED PROPERTY since 1952, and petitioners' complaint having been filed only

on April 3, 1970, or more than 10 years after December 3, 1952 (date of registration of Exhibit "6"), private respondents should be deemed to have acquired title to the DISPUTED PROPERTY through ordinary acquisitive prescription under the provisions of the present Civil Code.

- On appeal to respondent Appellate Court, the Trial Court's judgment was affirmed on June 21, 1976. Respondent Court further held that private respondents being in possession of the DISPUTED PROPERTY in the concept of owner, the legal presumption should be that they have ownership under a just title, which they need not show, pursuant to Article 541 of the Civil Code; and that petitioners had failed "to show through convincing evidence that it was they who were the true owners; but their evidence is purely oral". Respondent Court also upheld the argument that, assuming the antichresis, petitioners' right to recover the DISPUTED PROPERTY accrued in 1941 (when "the alleged loan with its interest at 6% had been fully paid"), and they incurred in laches in not having asserted such right within a reasonable time, instead of waiting until 1962 (or 1970), or 17 or 29 years thereafter.

- The Petition for Review on Certiorari was filed before this Court on October 4, 1976. It was dismissed for lack of merit on November 26, 1976. The dismissal was rei-terated in several subsequent Resolutions, but the Petition was eventually given due course in the Resolution of October 19, 1977 (Folio-220).

We have decided to uphold the questioned judgment of respondent Appellate Court.

(a) The Appellate Tribunal correctly affirmed the Decision of the Trial Court based on ordinary acquisitive prescription, except that the required period should have been stated as starting from May 23, 1947 when BENILDA executed the Affidavit, Exhibit "7", before Judge Simeon Ramos of the then Court of First Instance of Ilocos Norte. In that Affidavit, BENILDA claimed ownership over the DISPUTED PROPERTY. No judicial summons, which could interrupt possession for purposes of prescription (Article 1123, Civil Code) had been served on BENILDA. Neither have private respondents been served with judicial summons prior to the institution, on April 3, 1970, of Case No. 4569-11 of the then Court of First Instance of Ilocos Norte.

(b) It is also our opinion that respondent Court correctly invoked Article 541 of the Civil Code^[1] in concluding that private respondents should now be deemed the owners of the DISPUTED PROPERTY. Petitioners' claim that an instrument of antichresis had been executed by PLACIDA and VICTORIA in the later part of 1930, based on testimonial evidence, cannot be considered legally sufficient. An unregistered lease for 50 years, enforceable against the successors-in-interest of the lessee, could have been as easily alleged. A comment which we might make is that on or about 1930, an express contract of antichresis would have been unusual.^[2]

(c) As to respondent Court's indirect finding of laches, we repeat hereunder the following statement in *Pangadil vs. Court of First Instance of Cotabato*, 116 SCRA, p. 353:

"It is equally unbelievable that in the span of time from December 1941 up to the date that Civil Case No. 2187 was filed on January 7, 1969, a period of more than twenty-seven years, the petitioners would not have taken any step to verify the status of the land of their father which had been in the possession of the private respondents during all the time, particularly as to the possibility of redeeming the supposed mortgage their father had constituted thereon. Their inaction for such a considerable period of time reflects on the credibility of their pretense that they merely intended to confirm an oral mortgage, instead of a sale of the land in question."

WHEREFORE, the Decision appealed from is affirmed, with costs against petitioners.

SO ORDERED.

Plana, Gutierrez, Jr., De La Fuente, and Patajo, JJ., concur.

Teehankee, J., (Chairman), no part.

[1] ART. 541. A possessor in the concept of owner has in his favor the legal presumption that he possesses with a just title and he cannot be obliged to show or prove it.

[2] De la Vega v. Ballillos, 34 Phil. 683; Barretto v. Barretto, 37 Phil. 234; Macapinlac v. Gutierrez Repide, 43 Phil. 770.

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