

**SOFIA GONZALES VDA. DE DELIMA, PLAINTIFF-APPELLANT, VS.
ELEAZAR TIO, DEFENDANT-APPELLEE.***G.R. No. L-27181. April 30, 1970*

Ponente: FERNANDO, J.

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The right to a day in court is dearly cherished — and under-standably so. Thereby, one is enabled to seek the protection the law affords whenever he can show injury to his person or property. Such a right, however, must be seasonably exercised. For there are policy considerations of the most exigent character that so compel. It could be lost, then, under circumstances amounting to laches or prescription. So it is in the appeal before us filed by appellant Sofia Gonzales Vda. de Delima, plaintiff below, against appellee, defendant Eleazar G. Tio, from an order of dismissal of the lower court based on laches and the prescription of the two causes of action for the recovery of the disputed real property, the transaction out of which the litigation arose dating back to 1936 and the complaint not being filed until May 8, 1964, a period of almost 28 years. As would thus be readily discernible, the affirmance of the order of dismissal appears to be indicated.

The complaint filed by plaintiff on May 8, 1964 sets forth two causes of action. In the first, after stating the fact of ownership of property consisting of the coconut land in question, it was alleged that on August 27, 1936 a contract or agreement was executed in writing whereby for the sum of P600.00 the property of plaintiff was sold by her husband to Guillermo Tio, predecessor-in-interest of defendant, with the right to repurchase for an unlimited time, such property sold being paraphernal in character owned jointly by plaintiff with her sister, Dionisia Gonzales Vda. de Ibañez, who was neither a party to the contract. It was asserted that their respective husbands did enter into such contract without having been so authorized. There was the claim made that a year or two after August 27, 1936, plaintiff sought the return of such coconut land, but she was prevailed upon not to insist on such demand. It was not until May 8, 1964 that the complaint was actually filed. The second cause of action asserted that, for reasons unknown to plaintiff, the aforesaid Guillermo Tio included in the transaction another parcel of adjoining coconut land which she would likewise seek to recover by this complaint. There was a motion to dismiss, filed on November 16, 1964, based on the ground that such first and second causes of action allegedly existing in favor of plaintiff were barred by the statute of limitation, defendant moreover having acquired the property, subject matter of the complaint, by acquisitive prescription.

The order of dismissal of November 15, 1966 sustained such a motion to dismiss on the ground of the statute of limitation consisting a bar to such a complaint as well as laches. The lower court refrained from ruling on the question of acquisitive prescription as it "would necessitate the presentation of proof to its complete satisfaction by means of relevant and competent evidence. The stage of the proceeding for that purpose has not yet come to pass."^[1]

This appeal from such order of dismissal was then taken, plaintiff seeking, unsuccessfully, as was announced at the opening of this opinion, to reverse the lower court. Why it has to be thus will now be taken up.

1. It is now an established doctrine that inaction and neglect convert what otherwise could be a valid claim into a stale demand. They are factors that militate against any judicial cognizance of a matter that could have been within its ken. 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.[2]

It is clear from the complaint that plaintiff waited until almost 28 years from the time of the transaction before she filed the action on May 8, 1964. In a case not too dissimilar, *Rodriguez v. Rodriguez*,[3] this Court held: "Appellant's inaction to enforce her right, for 28 years, cannot be justified by the lame excuse that she assumed that the transfer was valid." *Laurel-Manila v. Galvan*,[4] an equally recent decision, this Court speaking through justice J. B. L. Reyes, is even more relevant. Thus: "We find no reversible error in the dismissal of the complaint. Even grant-ing that the order of March 19, 1925, authorizing the sale was invalid in that it did not state the amount of the debt of the deceased nor the value of his personal estate, nor was a time and place for hearing and resolving the application previously set, nor was, due notice thereof ordered to be given to the persons interested (although this is disputed by defendants), the unexplained interval of twenty-nine (29) years that plaintiffs allowed to elapse (1925-1954) before making any claim or instituting action constitutes laches that places them in estoppel to question the validity of the probate court's order and of the transactions executed in pursuance thereof * * *." The lower court was thus on firm ground in relying on laches for its order of dismissal.

2. Nor could it entertain any apprehension as to the correctness of its ruling when in deference to what the then applicable Code of Civil Procedure provision prescribed, it based its order of dismissal on plaintiff's right to file the action having prescribed as much more than 10 years had elapsed. As provided therein: "An action for recovery of title to, or possession of, real property, or an interest there-in, can only be brought within ten years after the cause of such action accrues." [5] This Court has, from the two leading cases of *Conspecto v. Fruto* [6] and *Corporacion de PP. Agustinos Recoletos v. Crisostomo*, [7] consistently applied the literal, language of the above provision limiting to a period of 10 years after the accrual of the cause of action a suit for recovery of title to or possession of real property. [8]

A case with features that call to mind the facts alleged in this complaint is *Amar v. Pagharion*. [9] As in the contract here in question, there was no stipulation as to the period of time within which the vendors could repurchase. As distinguished from this case, however, there was a repurchase from the vendee, but with money coming from a third party who thereafter remained in possession, Plaintiffs, the original vendors, would still assert a right to repurchase the parcel of land. This Court was of a different mind, as explained in the opinion: "The plaintiffs rest their case on their right they claim they have to repurchase the parcel of land. But the defendant's possession of the parcel of land from 27 October 1927, when he took possession thereof, to 7 December 1949, when the complaint was filed in this case, 22 years, 1 month and 11 days had already elapsed, which is a period of time sufficient not only to bar the action but to vest in him title by prescription."

That the right of redemption in force under Art. 1508 could not be for an unlimited period, even under a stipulation as that found in the contract here in question that the vendee had the obligation to resell the land at any time that the vendor could pay him back the amount agreed upon, was made clear in an earlier case, *Aliño v. Adove*. [10] Thus: "It must not be forgotten that accord-ing to article 1508 of the Civil Code, in this kind of contracts the period may be either conventional or legal. The former is fixed by the parties and cannot exceed ten years; the latter is fixed by law at four years. So that in every case there is always a period within which the right of redemption must be exercised, In the case of *Albert and Albert v. Punsalan* (9 Phil., 294), this Court said: 'Where the property is sold under an agreement of pacto de retro, and the right to repurchase is not exercised within the time fixed by the agreement or within the maximum period allowed by the Civil Code when no period is

stipulated, the title of the purchaser becomes absolute.' In the case of *Buencamino vs. Viceo* (13 Phil., 97), it was held that: 'In a contract of sale with a right to repurchase, when no time is specified within which the repurchase must be made, it must be done within four years.'"

There was likewise an allegation in the complaint that a year or two after August 27, 1936 that the contract was entered into, there was a demand by plaintiff for the return of the coconut land in question but that she "was prevailed upon to defer said demand for the return of said property for one reason or another,"[11] one of which was that plaintiff and her husband were godchildren of defendant's predecessor-in-interest. What does emerge most dearly is that whether the period be counted from the date the contract was signed on August 27, 1936 or from sometime in August of 1938, in accordance with the above allegation, much more than 10 years had elapsed. Clearly, then, plaintiff's cause of action was barred by the above statutory provision. So it was correctly held by the lower court.

3. In the above *Amar v. Pagharion* decision, it was stated that the complaint having been filed after 22 years, not only was the action barred but the person in possession acquired the property by acquisitive prescription. For again, under the Code of Civil Procedure, 10 years actual adverse possession by any person claiming to be the owner for that time of any land in whatever way his occupancy might have commenced or continued and under a claim of title exclusive of any other right and adverse to all other claimants, could result in the acquisition of title thereto by prescription.[12]

As was clearly set forth in the above leading case of *Conspecto v. Fruto*, the opinion of this Court relying almost verbatim on the language of Justice Miller of the United States Supreme Court in *Probst v. Trustees of the Board of Domestic Missions*: "It is the essence of the statute of limitations that, whether the party had a right to the possession or not, if he entered under the claim of such right and remained in possession for the period (ten years) named in the statute of limitations, the right of action of the plaintiff who had the better title is barred by that adverse possession. The right given by the statute of limitations does not depend upon, and has no necessary connection with, the validity of the claim under which the possession is held. Otherwise there could be no use for the statute of limitations or adverse possession as a defense to an action, for if the decision is made to depend upon the validity of the respective titles set up by plaintiff and the defendant, there can be no place for the consideration of the questions of adverse possession. It is because the plaintiff has a better title that the defendant is permitted to rely upon such uninterrupted possession, adverse to the plaintiff's title, as the statute prescribes, it being well understood and an element in such cases, that the plaintiff does have the better title, but that he has lost it by delay in asserting it."

While the lower court then did not feel called upon to rely on acquisitive prescription, it would appear that it could have done so without its order of dismissal being susceptible to any alleged error having been committed as a result thereof. For again, we have been consistent in our decisions that literally apply, the terms of the above Code of Civil Procedure provision.¹⁴ An excerpt from *Ongsiaco v. Dallo*,¹⁵ the latest decision in point, penned by Justice Makalintal, speaking for the Court, supplies additional light. Thus: "It is thus admitted that since 1924 or for a period of forty-two years before the basic complaint was filed in 1966, petitioners had been in possession of the land claimed by plaintiffs below, now respondents and that such possession, was adverse, or in concept of owner, although allegedly in bad faith. Under the Code of Civil Procedure, formerly in force, good or bad faith was immaterial, for purposes of acquisitive prescription. Adverse possession in either character ripened into ownership after the lapse of ten years."

While the lower court did exercise caution and did refrain from making any ruling on the question, of acquisitive prescription, it could, following the above course of decisions, have done so without incurring the risk of committing error.

4. In the light of the above discussion, it is clear that it was futile for appellant, as she did in her brief, to ascribe to the lower court a failure to adhere to what the settled law requires both on the question of prescription, whether extinctive or acquisitive, as she did in her second and third assigned errors. She would impart a novel twist to her argument on the question of acquisitive prescription ascribing to the order of dismissal the defect of leaving undecided the ownership of the disputed property as the lower court failed to consider the effects of adverse possession and did not rule on defendant acquiring title to such land. A more informed analysis would have disclosed that insofar as the order of dismissal is based on laches as well as the statutory bar, plaintiff having lost her right to file the suit through prescription, there is more than sufficient justification for the challenged actuation of the lower court. Not much purpose would be served, therefore, in pursuing further this line of attack by appellant.

The first assignment of error would, however, rely on the allegation that no prescription could lie as the contract was void and non-existent from the beginning.¹⁶ This is on the assumption that the matter could be governed by the New Civil Code. Even if it were so, plaintiff suffers from a misapprehension. The contract dealing as it did with paraphernal property cannot be considered as void or non-existent, but merely as unenforceable. So it was provided by the old Civil Code in force at the time it was entered into.¹⁷ One of the allegations of her complaint to the effect, that she did demand of defendant's predecessor-in-interest as well as from defendant himself the return of said coconut land presumably upon the payment of the P600.00 which was the consideration would indicate that there was at least implied ratification.¹⁸ Even if such were not the case, however, as is clear from the above codal provision, an argument based on the allegation of a void or non-existent contract obviously lacks persuasiveness.

It is thus evident that it is unwarranted to assert that errors could justifiably be imputed to the lower court in ordering the dismissal of the complaint.

5. There is more than just a hint of equitable considerations on which plaintiff could rely. That is to be admitted, but the force of the above authoritative precedents leaves us no alternative but to affirm the order of dismissal. This is by no means to indicate approval of what apparently transpired, if the complaint be accepted at its face value. It is not too much to say that defendant's predecessor-in-interest in his dealings with plaintiff failed to exhibit the utmost respect for the promptings of good faith that the situation would seem to require. Nor did defendant make matters any easier for plaintiff. Both of them, it would appear, were motivated solely by the promptings of inordinate self-interest; they did yield unduly to the temptation to take advantage of the unfortunate circumstances in which plaintiff found herself. Regrettably, however, she did allow this state of things to continue until she lost the right to invoke the appropriate remedy the law provides so that whatever grievance might have been alleged could be redressed. Nor is it any reproach to the law if in the interest of public peace and stability in property relationship, a continuing state of incertitude and doubt is put an end to, *Vigilantibus non dormientibus equitas subvenit*.¹⁹ This Court then, in submission to such a dictate of public policy, cannot disauthorize what the lower court did.

WHEREFORE, the order of dismissal of November 15, 1966 is affirmed. No pronouncement as to costs.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Ruiz Castro, Teehankee, and Villamor, JJ., concur.
Barredo, J., on leave.

[1] Order of Dismissal, Record on Appeal p. 54.

[2] Cf. *Go Chi Gun v. Co Cho*, 96 Phil. 622 (1955). This case first announced the requisites necessary for laches to exist. It was subsequently followed in *Mejia de Lucas v. Gamponia*, 100 Phil. 277 (1956). The *Gamponia*

ruling was affirmed in *Viloria v. Secretary of Agriculture*,¹ 107 Phil. 879 (1960); *Ab-raham v. Recto-Kasten* L-16741, San. 31, 1962, 4 SCRA 298; *Venagara v. Vergara*, L-17524, May 18, 1962, 5 SCRA 53; *Custodio v. Casiano*, L-18977, Dec. 27, 1963, 9 SCRA 841; *Miguel v. Catalino*, L-23072, Nov. 29, 1968, 26 SCRA 234.

[3] L-23002, July 31, 1967, 20 SCRA. 908.

[4] L-23507, May 24, 1967, 20 SCRA 198. In *Arcuino v. Aparis*, L-23424, Jan. 31, 1968, 22 SCRA 407, the period of about 18 years was enough for the doctrine of laches to operate. in *Miguel v. Catalina* L-23072, Nov. 29, 1968, 26. SCRA 234, plaintiff's' long wait of 34 years was considered as amounting to laches. That such would be the conclusion is understandable 'when in the case of *Mejia de Lucas v-. Gamponia*, above referred to, it took 37 years for the action to be filed, and in *Edralin. v. Edralin*, L-14399, Jan. 28, 1961, 1 SCRA 222, 44 years.

[5] Sec. 40, Code of Civil Procedure, Act No. 190 (1901).

[6] 31 Phil. 144 (1915).

[7] 32 Phil. 427 (1915).

[8] Cf. *Inton v. Quintana*, 81 Phil. 97 (1948); *Asuncion Benalisa*, 100 Phil. 840 (1957); *Bambao v. Led-nicky*, L-15495, Jan. 28, 1961, 1 SCRA 330; *3. M. Tuason & Co. v. Magdangal*, L-15539, Jan. 30, 1962, 4 SCRA. 84; *Development Bank of the Phil. v. Ozarraga*, L-16631, Sept. 20, 1965, 15. SCRA 48; *Carrillo v. De Paz*, L-22601, Oct. 28, 1966, 18 SCRA 467; *Gallar v. Husain*, L-20954, May 24, 1967, 20 SCRA 186; *Laurel-Manila v. Galvan*, L-23507, May 24, 1967, 20 SCRA 198; *Ongsiaco Dallo*, L-27451, Feb. 28, 1969, 27 SCRA. 161.

[9] 99 Phil. 303 (1956).

[10] 42 Phil. 3.02 (1921). The cases of *Alano v. Babasa*, 10 Phil. 511 (1908); *Mason V. Goduco* 23 Phil. 342 (1912); and *Facundo v. Macapagal*, 30 Phil. 284 (1915) were likewise cited. *Albert v. Punzalan* was decided in 1907 and *Buencamino v. Viceo* in 1909.

[11] Complaint, par. 7, Record on Appeal, pp. 6 & 7.

[12] According to Section 41 of the Code of Civil Pro-cedure: "Ten years actual adverse possession by any person claiming to be the owner for that time of any land or interest in land, uninterruptedly continued for ten years by occupancy, descent, grants, or other-wise, in whatever way such occupancy may have com-menced or continued, shall vest in every actual occupant or possessor of such land a full and complete title, saving to the persons under disabilities the rights secured by the next section. In order to constitute such title by prescription or adverse possession, the- posses-sion by the claimant or by the person under or through whom he claims must have been actual, open,, public, continuous, under a claim of title exclusive of any other right and adverse to all other claimants. But failure to occupy or cultivate land solely by reason of war shall not be deemed to constitute an interruption of possession of the claimant and his title by prescription shall be com-plete, if in other respects perfect, notwithstanding such failure to occupy or cultivate the land during the continu-ance of war."

13129 US 182 (1889).

14 As a matter of fact, even, prior to the above *Conspecto v. Fruto* decision as well as *Corporation de PP. Agustinos Recoletos Crisostome*, there was such a pronouncement in *De Jesus v. Manzano*, 29 Phil. 367 (1915) and *Archibishop of Manila v. Arnedo*, 30 Phil. 593 (1915). Subsequent cases to the same effect are *Solla v. Ascueta*, 49. Phil. 333 (1926); *Valmente v. Villaroman*, 52 Phil. 221 (1928) and *Tagarao v. Garcia*, 61 Phil. 5 (1934).

15 L-27451, Feb. 28, 1969, 27 SCRA 161.

16 Art. 1409, par. 1, The New Civil Code.

17 Art. 1259, Civil Code of Spain, As reproduced in Art. 1317 of the New Civil Code, it reads: "No one may contract in the name of another without being authorized by the latter, or unless he has by law a right to represent him. A contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, shall be unenforceable, unless it is ratified, expressly or impliedly, by the person on whose behalf it has been executed, before it is revoked by the other contracting party."

18 Cf. *Salunga v. Evangelista*, 20 Phil. 273 (1911); *Gutierrez Hermanos v. Orense*, 28 Phil. 571 (1914); *Tacalar v. Corro*, 34 Phil. 898 (1916); *Ibañez v. Rodriguez*, 47 Phil. 554 (1925); *Zamboanga Transportation Co. v. Bachrach Motor Co.*, 52 Phil. 244 (1928).

19 Cited in *Buenaventura v. David*, 37 Phil. 435, 441 (1918).

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