

**BASILIO GODINEZ, TECLA GODINEZ, GREGORIA GODINEZ,
TRANQUILINO GODINEZ, CONCEPCION GODINEZ AND PEDRO
JAYME, PETITIONERS, VS. COURT OF APPEALS, MAMERTO IGOT
AND LORENZO IGOT, RESP...**

G.R. No. L-46768. March 18, 1985

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the acquisition of land by prescription. Felix Bergado owned Lot 655 with an area of 11,001 square meters. It is located in Punta Rizal, Barrio Gunob, Opon, now Lapulapu City. It was inherited by his seven children named Tomasa, Teodora, Ambrosia, Florencia, Aniceto, Macario and Vicente.

Cadastral Judge Guillermo F. Pablo on January 31, 1929 ordered the registration of Lot 655 in the names of seven sets of transferees to each of whom he adjudicated a 1/6 share instead of 1/7. Because of that error and other clerical errors, no decree was issued and the adjudicatees did not obtain any Torrens title. The land remained unregistered.

Two-sevenths of Lot 655, pertaining to Macario Bergado and Vicente Bergado, were transferred to Maximo Patalinghug while the 5/7 share of the other five children were transferred in 1929 and 1930 to the spouses Domingo Magsumbol and Susana Magsumbol.

Lot 655 was subdivided on January 30, 1934 with the approval of the Director of Lands into Lot 655-A (5/7) and Lot 655-B (2/7). The Bergado heirs ceased to have possession of any portion of Lot 655 which was occupied by the Magsumbol spouses and Patalinghug.

In the guardianship proceeding for the children of Miguel Magsumbol who inherited Lot 655-A from Domingo, Sr., Judge Jose M. Mendoza adjudicated to Domingo, Jr. on October 30, 1962 said lot with an area of 7,344 square meters. Domingo, Jr. then sold on November 2, 1962 to the brothers Mamerto and Lorenzo Igot Lot 655-A for P10,000 (Exh. D or 2). The Igots continued the Magsumbols' possession of Lot No. 655-A.

On May 10, 1967, or 38 years after Judge Pablo rendered his decision, Judge Mendoza, the same judge who granted Lot 655-A to Domingo Magsumbol, Jr., at the instance of some Bergado heirs, corrected the clerical errors in Judge Pablo's decision. A decree was issued and on December 19, 1967, OCT No. 8 was issued for Lot 655. The land became registered land at last.

In 1970 the Igot brothers sued some Bergado heirs for the reconveyance of Lot 655-A or 5/7 portion of Lot 655 which is covered by OCT No. 8. The trial court upheld their claim. The Appellate Court, through Justice Gatmaitan, affirmed that decision.

It held that the Magsumbols had acquired Lot 655-A by prescription under section 41 of the Code of Civil Procedure. That right was in turn transmitted to the Igots. The petitioners herein, or defendants Godinez and

Jayme, acquired only a paper title in 1967 when they obtained OCT No. 8.

The petitioners contend in this appeal that the Appellate Court erred in not regarding OCT No. 8 as indefeasible and in not considering that the action of the Igots is barred by res judicata.

We hold that the Appellate Court did not err in dismissing the claim of the petitioners for Lot 655-A which has been in the adverse, continuous, uninterrupted and notorious possession of the Magsumbols and the Igots in the concept of owner for more than half a century. Law and the canons of common sense are on the side of the Igots.

OCT No. 8 did not nullify the sales made by the five Bergado children to the Magsumbol spouses in 1929 and 1930.

WHEREFORE, the judgment of the Court of Appeals is affirmed. Costs against the petitioners.

SO ORDERED

Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

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

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