

FILOMENA GERONA DE CASTRO, PETITIONER, VS. JOAQUIN TENG QUEEN TAN, TAN TENG BIO, DOLORES TAN, ROSARIO TAN HUA ING, AND TO O. HIAP, RESPONDENTS.

G.R. No. L-31956. April 30, 1984

Ponente: PLANA, J.

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PLANA, J.:

Review on certiorari of the order of the former Court of First Instance of Sorsogon dismissing petitioner's action for annulment of contract with damages.

In 1938, petitioner Filomena Gerona de Castro sold a 1,258 sq. m. residential lot in Bulan, Sorsogon to Tan Tai, a Chinese. In 1956, Tan Tai died leaving herein respondents - his widow, To O. Hiap, and children Joaquin Teng Queen Tan, Tan Teng Bio, Dolores Tan and Rosario Tan Hua Ing.

Before the death of Tan Tai or on August 11, 1956, one of his sons, Joaquin, became a naturalized Filipino. Six years after Tan Tai's death, or on November 18, 1962, his heirs executed an extra-judicial settlement of estate with sale, whereby the disputed lot in its entirety was allotted to Joaquin.

On July 15, 1968, petitioner commenced suit against the heirs of Tan Tai for annulment of the sale for alleged violation of the 1935 Constitution prohibiting the sale of land to aliens.

Except for respondent Tan Teng Bio who filed an answer to the complaint, respondents moved to dismiss the complaint on the grounds of (a) lack of cause of action, the plaintiff being in *pari delicto* with the vendee, and the land being already owned by a Philippine citizen; (b) laches; and (c) acquisitive prescription.

Over the opposition of petitioner, the court *a quo* dismissed the complaint, sustaining the first two grounds invoked by the movants. It is this order of dismissal that is now the subject of this review.

The assailed order must be sustained.

Independently of the doctrine of *pari delicto*, the petitioner cannot have the sale annulled and recover the lot she herself has sold. While the vendee was an alien at the time of the sale, the land has since become the property of respondent Joaquin Teng, a naturalized Philippine citizen, who is constitutionally qualified to own land.

"...The litigated property is now in the hands of a naturalized Filipino. It is no longer owned by a disqualified vendee. Respondent, as a naturalized citizen, was constitutionally qualified to own the subject property. There would be no more public policy to be served in allowing petitioner Epifania to recover the land as it is already in the hands of a qualified person. Applying by analogy the ruling of this Court in *Vasquez vs. Giap and Li Seng Giap & Sons*:

'x x x if the ban on aliens from acquiring not only agricultural but also urban lands, as construed by this Court in the *Krivenko* case, is to preserve the nation's lands for future generations of Filipinos, that aim or purpose would not be thwarted but achieved by making lawful the acquisition of real estate by aliens who became

Filipino citizens by naturalization.'" (Sarsosa Vda. de Barsobia vs. Cuenco, 113 SCRA 547, at 553.)

Laches also militates against petitioner's cause. She sold the disputed lot in 1938. She instituted the action to annul the sale only on July 15, 1968. What the Court said in the cited Sarsosa case applies with equal force to the petitioner.

"... it is likewise inescapable that petitioner Epifania had slept on her rights for 26 years from 1936 to 1962. By her long inaction or inexcusable neglect, she should be held barred from asserting her claim to the litigated property (Sotto vs. Teves, 86 SCRA 157 [1978]).

'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 a presumption that the party entitled to assert it either has abandoned it or declined to assert it. (Tijam, et al. vs. Sibonghanoy, et al., No. L-21450, April 15, 1968, 23 SCRA 29, 35).'

(cited in Sotto vs. Teves, 86 SCRA 154 [1978]).

"Respondent, therefore, must be declared to be the rightful owner of the property." (p. 553.)

WHEREFORE, the appealed order is affirmed. Costs against petitioner.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Relova, Gutierrez, Jr., and De la Fuente, JJ., concur.

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