

**SPOUSES VILLAMOR DONATO AND LUZONIA O. DONATO,
PETITIONERS, VS. THE COURT OF APPEALS AND HEIRS OF ROSARIO
FONTANILLA, REPRESENTED BY RODOLFO RARANG, RESPONDENTS.**

G.R. No. 102603. January 18, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

This is a Petition to review the decision[*] of the Court of Appeals in C-A-G.R. CV No. 19644, entitled "Heirs of Rosario Fontanilla, represented by Rodolfo F. Rarang, Plaintiffs-Appellees, versus Spouses Villamor and Luzonia O. Donato, Defendants-Appellants" which affirmed in toto the decision[**] of the Regional Trial Court in Alaminos, Pangasinan, Branch 54, the dispositive portion of which is reproduced as follows:

"WHEREFORE, judgment is hereby rendered in favor of plaintiffs:

1. ORDERING defendants to vacate lot 5145, CAD. 325-D of the Alaminos Cadastre and to deliver possession thereof to the plaintiffs;
2. ORDERING defendants to pay to plaintiffs the sum of TEN THOUSAND PESOS (P10,000.00) as and for attorney's fees, and to pay the cost of suit.

Defendants' counterclaim is hereby DISMISSED for lack of merit.

SO ORDERED."[1]

The antecedent facts, as can be gathered from the findings of the trial court are as quoted:

"Based on the evidence adduced by the parties as well as their admissions, there is no dispute as to the following facts: As described in par. 2 of the Complaint, the land in dispute is Lot 5145, CAD. 325-D of the Alaminos Cadastre, located at Brgy. Inerangan, Alaminos, Pangasinan. The said land is an unregistered riceland with an area of 4,280 square meters and used to be owned by Rosario Fontanilla, deceased mother of the plaintiffs, as her paraphernal property x x x. Said Rosario Fontanilla died in 1971 in Davao City x x x and is survived by her five (5) children, to wit: Rodolfo, Plotarco, Ernesto, Edgardo, and Lolita, all surnamed Rarang x x x as her heirs. All of the said children x x x were born in Inerangan, Alaminos, Pangasinan; however, between 1957 and 1967 Rosario Fontanilla and her children migrated separately to Davao City x x x.

There is likewise no dispute that defendants are the registered owners of a parcel of land, denominated as Lot No. 5303, CAD. 325-D of Alaminos Cadastre, which is covered by Transfer Certificate of Title No. 5535 and located near the land in question at Brgy. Inerangan, Alaminos, Pangasinan x x x. Sometime in 1982, defendants purchased the aforesaid land from the Rural Bank of Urbiztondo, Inc. after the said bank foreclosed the mortgage constituted thereon by one Carolina Abrigo x x x. Believing that the land which they purchased from the Rural Bank of Urbiztondo is Lot 5145, CAD. 325-A of Alaminos Cadastre, defendants occupied the said land in 1982 and are still in possession of the same up to this date x x x."[2]

In the complaint, private respondents claim ownership over the parcel of land in dispute allegedly inherited by

them from their late mother, Rosario. They contend that petitioners herein own a parcel of land covered by Transfer Certificate of Title No. 5535 and denominated as Lot No. 5303, CAD. 325-D, as appearing in the Registry of Deeds of Pangasinan, which is not the same nor is it identical with the land in dispute.

In their answer, however, petitioners maintain that Lot No. 5303 as evidenced by Transfer Certificate of Title No. 5535 was originally applied for titling by one Carolina Abrigo on the strength of a Deed of Sale executed by Jose Ochave as vendor and Carolina Abrigo as vendee. As an affirmative defense, they allege that the parcel subject of this controversy is the very same Lot No. 5303 over which petitioners hold the title of ownership. It was a matter of oversight, they assert, on the part of the Bureau of Lands, that the identity of these two parcels was not reflected in their title. According to the petitioners, Jose Ochave's ownership over the same parcel finds support in the Deed of Sale executed by Basilio Rarang, who allegedly derives his authority as Rosario's agent from a Special Power of Attorney duly executed in his favor.

During the trial on the merits, private respondents, through Rodolfo Rarang who is the lone witness, disputed the validity of the Special Power of Attorney. The rest of their evidence consisted of documents.

Petitioners countered and presented the Notary Public who notarized the Deed of Sale between Basilio Rarang and Jose Ochave. Among the documents presented by the petitioners were the controverted Deed of Sale and the Special Power of Attorney said to have been executed by Rosario Fontanilla-Rarang in favor of Basilio Rarang.

In finding for the private respondents, the trial court held:

"The Court finds defendants' claim of ownership of Lot 5145 to be devoid of merit for several reasons:

In the first place, the land which defendants bought from the Rural Bank of Urbiztondo, Inc. is Lot 5303, CAD. 325-D of Alaminos Cadastre, which land is covered by TCT No. 5535 in the name of defendants (pp. 26-27, TSN, Oct. 2, 1987). Having knowingly bought a registered land, the identity and metes and bounds of which are clearly set forth in detail in its certificate of title, defendants are plainly estopped from claiming that they acquired thereby a parcel of land (Lot 5145) which is entirely distinct and different from the parcel of land (Lot 5303) described and identified in the certificate of title; otherwise, the very purpose and essence of a certificate of title under the Torrens System would thereby be impaired, if not totally negated. Verily, the infirmity of defendants' claim that it was not Lot 5303 which they purchased from the Rural Bank of Urbiztondo is further underscored by their own admission that they have successively mortgaged the said land to the China Banking Corporation and thereafter to the Pangasinan Development Bank (par. 3 of Amended Answer in relation to par. 4 of Complaint). Accordingly, defendants' contention that "the title (TCT No. 5535) is not a true and faithful reproduction of what was actually applied for" and contains discrepancies due to the fault of the Bureau of Lands (pars. 10 and 14, Amended Answer) is beside the point and of no help to defendants' position. Suffice it to state that defendants are deemed to know the identity of the registered land which they were buying when they contracted with the Rural Bank of Urbiztondo.

In the second place, the Court is not convinced as to the validity of the sale of the land in question in 1967 by Basilio Rarang in favor of Jose Ochave (Exhibit 6). Article 1874 of the Civil Code provides that:

"When a sale of a piece of land or any interest therein is through an agent, the authority of the latter shall be in writing; otherwise, the sale shall be void."

x x x. Defendants point to the Power of Attorney dated September 27, 1966 as sufficient authority. x x x the said Power of Attorney shows on its face that it was not signed by the supposed notary public Anastasio D. Deluao of Davao City, although his name is stamped thereon. The person who appeared, signed, and acknowledged the said Power of Attorney before the notary public was Basilio Rarang (the agent) and not Rosario Rarang (the principal),

x x x. The said Power of Attorney was purportedly acknowledged by Basilio Rarang, the supposed attorney-in-fact, on September 22, 1966 or five days before the said Power of Attorney was allegedly signed by Rosario Rarang, the supposed principal. Further, the Court takes note of the fact that the first page of the Power of Attorney, which contains all the material allegations thereof, does not bear any signature at all. Compounding the aforesaid discrepancies of the said Power of Attorney, defendants also failed to present any evidence to prove the genuineness and due execution of said instrument, particularly the supposed signature of Rosario Rarang on the second page thereof. Accordingly, the Court must give credence to the testimony of Rodolfo Rarang (pp. 22-28, TSN, July 13, 1987) and concludes that the signature above the typewritten name Rosario Rarang on the second page of the Power of Attorney (Exh. 7-A) is not the true signature of plaintiffs' mother Rosario Fontanilla Rarang.

The contention of defendants that they have been in peaceful possession of the land in question since 1982 (par. 15, Amended Answer) and have introduced improvements thereon (pars. 16 and 17, Amended Answer), albeit upon their mistaken belief that it is the land which they purchased from the Rural Bank of Urbiztondo, does not detract anything from the fact that defendants are illegally occupying plaintiffs' property without any just or legal ground. Neither can defendants be heard to plead good faith as a defense since, by their own admission, they negligently bought a registered land without first examining the title and true identity of the land (pp. 23-25, TSN, Oct. 2, 1987). Be that as it may, Article 22 of the Civil Code mandates that -

"Every person who through an act of performance by another or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him."[3]

This decision was affirmed by the Respondent Court in toto. Hence, this appeal.

A review of the appellate court's decision is anchored on the following, as stated by the petitioners:

A. THE RESPONDENT COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE LOWER COURT IN DECLARING THE SPECIAL POWER OF ATTORNEY EXECUTED BY THE LATE MOTHER OF PRIVATE RESPONDENTS AS NULL AND VOID AND RELYING SOLELY ON THE UNCORROBORATED TESTIMONY OF RODOLFO RARANG, WHO IS THE LONE WITNESS IN COURT DESPITE THE FACT THAT THE TWO MATERIAL WITNESSES TO THE EXECUTION OF THE SPECIAL POWER OF ATTORNEY WERE STILL VERY MUCH ALIVE AND ARE IN THEMSELVES CO-PRIVATE RESPONDENTS OF RODOLFO RARANG, AND WERE NEVER PRESENTED IN COURT TO DISPUTE THE VERACITY OF SAID DOCUMENT.

B. THE HONORABLE COURT OF APPEALS ALSO FAILED TO TAKE INTO CONSIDERATION THE LONG AND CONTINUOUS POSSESSION OF THE PETITIONERS AND THEIR PREDECESSORS-IN-INTEREST IN THE CONCEPT OF OWNERS UNTIL IT WAS TRANSFERRED TO THE PETITIONERS.

C. THE HONORABLE COURT OF APPEALS ERRED IN NOT POINTING OUT CATEGORICALLY THE BASIS OF OWNERSHIP OF THE LOT IN DISPUTE WHEN THE RECORDS OF THE CASE DOES NOT BEAR ANY PROOF AS TO THEIR RIGHT OF OWNERSHIP EXCEPT THE TESTIMONY OF PRIVATE RESPONDENT RODOLFO RARANG ON THE STAND THAT THEY INHERITED THE SAME FROM THEIR LATE MOTHER.

D. THE HONORABLE COURT OF APPEALS ERRED IN FINDING THAT PRIVATE RESPONDENTS WERE NOT PARTIES TO THE SPECIAL POWER OF ATTORNEY, HENCE, FAILURE TO DENY SAID ACTIONABLE DOCUMENT UNDER OATH IS NOT DEEMED AN ADMISSION OF ITS GENUINENESS AND DUE EXECUTION.

E. THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT PRIVATE RESPONDENTS EITHER WAIVED THEIR RIGHT AND/OR THEIR RIGHTS HAVE ALREADY PRESCRIBED DUE TO INACTION.

F. THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT THE TRIAL COURT'S DECISION SHOULD NEVER BE TARNISHED WITH ANY PERCEPTION OF IMPROPRIETY.

G. THE HONORABLE COURT OF APPEALS ERRED IN NOT FINDING THAT PETITIONERS ARE GUILTY OF EVIDENT BAD FAITH WAS UNJUSTIFIED.

H. THE HONORABLE COURT OF APPEALS' DECISION MUST BE REVERSED FOR IT IS CONTRARY TO LAW AND JURISPRUDENCE ON THE MATTER.

The disposition of the first assignment of error involves the appreciation of facts surrounding the execution of the controverted Special Power of Attorney, a task which has been delegated to the trial court. In this jurisdiction, it is a fundamental and settled rule that conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying in the case.

After a careful study of the records, there appears to be no cogent reason to fault the findings of the trial court that the Special Power of Attorney is null and void. This being the case, all subsequent transactions involving Lot 5145 and springing from the Special Power of Attorney are also null and void. Consequently, on this alone, petitioners' claim of ownership should be rejected outright.

Petitioners assert that the appellate court failed to consider their long and continuous possession over the disputed lot as equivalent to possession in the concept of owners. This is preposterous. How can they be considered possessors in the concept of owners when the land over which they hold title is not the same as that which they possess? Possession, to constitute the foundation of a prescriptive right, must be possession under a claim of title or it must be adverse.^[4] Petitioners herein cannot be said to be in possession of the land under a claim of title, since it has been established that petitioners' title covers a different parcel of land; more so, can it be considered that petitioners are in adverse possession thereof.

At this juncture, it would be appropriate to rule on the seventh assignment of error. We agree that petitioners are guilty of bad faith. Having been issued a certificate of title, which states the exact metes and bounds of the real property covered, they are thus aware of the extent of their domain. Hence, they are estopped from claiming a piece of land that is entirely distinct from that which is covered by their title. This Court cannot simply support the argument set forth by petitioners based merely on their honest belief that their title pertained to the disputed land.

Anent petitioners' fourth assignment of error, We hold that the appellate court did not commit a mistake. While it is true that Section 8, Rule 8 of the Revised Rules of Court provides for the rule on implied admission of the genuineness and due execution of a document subject of an action or defense, the same is not without exception. One such exception is when the adverse party does not appear to be a party to the instrument.^[5] Private respondents Lolita and Ernesto were mere witnesses to the Special Power of Attorney in question and as such, they cannot be considered as parties to the instrument. Moreover, the same document should not be afforded a presumption of genuineness and due execution. In view of the various discrepancies found by the trial court,^[6] it lacks the veracity to entitle it to any degree of credibility.

Neither can prescription be appreciated in favor of herein petitioners. As properly held by the appellate court, petitioners are guilty of evident bad faith. Therefore, for prescription to apply, the period that is material for Our

consideration is thirty years. Since only twenty years have lapsed from the alleged first transaction concerning the land until the institution of the case at bar, petitioners cannot lay claim as owners by acquisitive prescription.[7]

Moreover, private respondents cannot be penalized for having allegedly slept on their rights. Laches is not concerned with mere lapse of time. The mere fact of delay is insufficient to constitute laches. It is required that (1) 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.[8] In the instant case, the first requisite is absent. Even assuming *arguendo* that the petitioners have been in possession through their predecessors, private respondents were not aware of said possession until Rodolfo Rarang came home in 1985, after which they lost no time in instituting this case. Moreover, there is no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances. In the case of *Jimenez vs. Fernandez*,[9] the court declared that the question of laches is an equitable doctrine and its application is controlled by equitable considerations. The Court further stated that laches cannot be worked to defeat justice or to perpetuate fraud or injustice. It would be rank injustice and patently inequitable to deprive the lawful heirs of their rightful inheritance.

Finding no truth to the petitioners' claim of validity of the instrument from which their title emanates and their argument of title by prescription, we consider it unnecessary to discuss at length or to determine the other issues presented, they being immaterial to the resolution of this appeal.

For reasons indicated, the petition for review is hereby DISMISSED. The decision of the respondent Court is AFFIRMED. With costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Nocon, JJ., concur.

[*] Penned by Associate Justice Regina G. Ordoñez-Benitez, concurred in by Associate Justices Jose A.R. Melo and Emeterio C. Cui.

[**] Civil Case No. A-1677, Judge Artemio R. Corpus, ponente.

[1] Rollo, p. 55.

[2] RTC Decision, p. 4; Rollo, p. 52.

[3] *Ibid.*, pp. 53-55.

[4] *Ordoñez vs. Court of Appeals*, 188 SCRA 109 (1990).

[5] *Gaw vs. Court of Appeals*, 191 SCRA 77 (1990); *Lim-Chingco vs. Terariray, et al.*, 5 Phil. 120 (1905) cited in 1 Paras, *RULES OF COURT ANNOTATED* 258-259 (2nd ed., 1989).

[6] Decision, p. 6; Rollo, p. 54.

[7] New Civil Code, Article 1137.

[8] *Gabriel vs. Court of Appeals*, 159 SCRA 461 (1988).

[9] 184 SCRA 190 (1990).

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