HEIRS OF ERNESTO BIONA, NAMELY: EDITHA B. BLANCAFLOR, MARIANITA D. DE JESUS, VILMA B. BLANCAFLOR, ELSIE B. RAMOS AND PERLITA B. CARMEN, PETITIONERS, VS. THE COURT OF APPEALS AND...

G.R. No. 105647. July 31, 2001*

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Before us is a petition for review on certiorari under Rule 45 of the Decision of the Court of Appeals dated March 31, 1992, reversing the decision of the Regional Trial Court, 11[th] Judicial region, Branch 26, Surallah, South Cotabato and the Resolution dated May 26, 1992, denying the subsequent motion for reconsideration.

Quoting from the decision of the Court of Appeals, the antecedent facts are as follows:

> On October 23, 1953, the late Ernesto Biona, married to plaintiff-appellee Soledad Biona, was awarded Homestead Patent No. V-840 over the property subject of this suit, a parcel of agricultural land denominated as lot 177 of PLS-285-D, located in Bo. 3, Banga, Cotabato, containing an area of ten (10) hectares, forty-three (43) acres and sixty-eight (68) centares, Original Certificate of Title No. (V-2323) P-3831 was issued in his name by the Register of Deeds of Cotabato (Exh. C). On June 3, 1954, Ernesto and Soledad Biona obtained a loan from the then Rehabilitation Finance Corporation (now the Development Bank of the Philippines) and put up as collateral the subject property (Exh. 4). On June 12, 1956, Ernesto Biona died (Exh. B) leaving as his heirs herein plaintiffs-appellees, namely, his wife, Soledad Estrobillo Vda. De Biona, and five daughters, Editha B. Blancaflor, Marianita B. de Jesus, Vilma B. Blancaflor, Elsie B. Ramos and Perlita B. Carmen.
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> On March 1, 1960, plaintiff-appellee Soledad Biona obtained a loan from defendant-appellant in the amount of P1,000 and as security therefore, the subject property was mortgaged. It was further agreed upon by the contracting parties that for a period of two years until the debt is paid, defendant-appellant shall occupy the land in dispute and enjoy the usufruct thereof.
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> The two-year period elapsed but Soledad Biona was not able to pay her indebtedness. Defendant-appellant continued occupying and cultivating the subject property without protest from plaintiffs-appellees.
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> On July 3, 1962, defendant-appellant paid the sum of P1,400.00 to the Development Bank of the Philippines to cancel the mortgage previously constituted by the Biona spouses on June 3, 1953 (Exhs. 4 and 6).
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> Thereafter, and for a period of not less than twenty-five years, defendant-appellant continued his peaceful and public occupation of the property, declaring it in his name for taxation purposes (Exhs. 10 and 11), paying real estate property taxes thereon (Exhs. 12, 13, 13-a to 13-e, F, G, H and I), and causing the same to be tenanted (Exhs. 7, 8, 9).
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> On June 19, 1985, plaintiffs-appellees, filed a complaint for recovery of ownership, possession, accounting and damages, with a prayer for a writ of preliminary mandatory injunction and/ or restraining order against defendant-appellant alleging, among others, that the latter had unlawfully been depriving them of the use,

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possession and enjoyment of the subject property; that the entire parcel of land, which was devoted and highly suited to palay and corn, was yielding three harvests annually, with an average of one hundred twenty (120) sacks of corn and eighty cavans of rice per hectare; that plaintiffs-appellees were deprived of its total produce amounting to P150,000.00. Plaintiffs-appellees prayed for the award of moral damages in the sum of P50,000.00, exemplary damages in the amount of P20,000,00 and litigation expenses in the amount of P2,000.00.

On September 19, 1986, defendant-appellant filed his answer with counterclaim traversing the material allegations in the complaint and alleging, by way of affirmative and special defenses, that: on September 11, 1961, Soledad Biona, after obtaining the loan of P1,000.00 from defendant-appellant, approached and begged the latter to buy the whole of Lot No. 177 since it was then at the brink of foreclosure by the Development Bank of the Philippines and she had no money to redeem the same nor the resources to support herself and her five small children; that defendant-appellant agreed to buy the property for the amount of P4,300.00, which consideration was to include the redemption price to be paid to the Development Bank of the Philippines; that the purchase price paid by defendant far exceeded the then current market value of the property and defendant had to sell his own eight-hectare parcel of land in Surallah to help Soledad Biona; that to evidence the transaction, a deed of sale was handwritten by Soledad Biona and signed by her and the defendant; that at the time of the sale, half of the portion of the property was already submerged in water and from the years 1969 to 1984, two and one-half hectares thereof were eroded by the Allah River; that by virtue of his continuous and peaceful occupation of the property from the time of its sale and for more than twenty- five years thereafter, defendant possesses a better right thereto subject only to the rights of the tenants whom he had allowed to cultivate the land under the Land Reform Program of the government; that the complaint states no cause of action; that plaintiff's alleged right, if any, is barred by the statutes of fraud. As counterclaim, defendant-appellant prayed that plaintiffs-appellees be ordered to execute a formal deed of sale over the subject property and to pay him actual, moral and exemplary damages as the trial court may deem proper. He likewise prayed for the award of attorney's fees in the sum of P10,000.00.

During the hearing of the case, plaintiffs-appellees presented in evidence the testimonies of Editha Biona Blancaflor and Vilma Biona Blancaflor, and documentary exhibits A to G and their submarkings.

Defendant-appellant, for his part, presented the testimonies of himself and Mamerto Famular, including documentary exhibits 1 to 13, F, G, H, I, and their submarkings.[1]

On January 31, 1990, the RTC rendered a decision with the following dispositive portion:

I (SIC) VIEW OF THE FOREGOING, decision is hereby rendered:

- ordering the defendant to vacate possession of the lot in question to the extent of six-tenths (6/10) of the total area thereof and to deliver the same to the plaintiff Soledad Estrobillo Biona upon the latter's payment of the sum of P1,000.00 TO THE FORMER IN REDEMPTION OF ITS MORTGAGE CONSTITUTED UNDER exh. "1" of defendant;

- ordering the defendant to vacate the possession of the remaining four-tenths (4/10) of the area of the lot in question, representing the shares of the children of the late Ernesto Biona and deliver the same to said plaintiffs; the defendant shall render an accounting of the net produce of the area ordered returned to the co-plaintiffs of Soledad Biona commencing from the date of the filing of the complaint until possession thereto has been delivered to said co-plaintiffs and to deliver or pay 25% of said net produce to said co-plaintiffs;

- ordering the defendant to pay the costs of this suit.

The defendant's counter-claim are dismissed for lack of merit.

SO ORDERED.[2]

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Dissatisfied, herein private respondent appealed to the Court of Appeals which reversed the trial court's ruling. The dispositive portion reads as follows:

> WHEREFORE, premises considered, the judgment appealed from is set aside and a new one entered dismissing the complaint, and the plaintiffs-appellees are ordered to execute a registrable deed of conveyance of the subject property in favor of the defendant-appellant within ten (10) days from the finality of this decision. With costs against plaintiffs-appellees.[3]

Hence, the instant petition where the following assignment of errors were made:

> I.-
>
> RESPONDENT COURT OF APPEALS ERRED IN CONCLUDING THAT THE SIGNATURE OF SOLEDAD ESTROBILLO IN THE DEED OF SALE (EXHIBIT "2"), A PRIVATE DOCUMENT, IS GENUINE.
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> II -
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> RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT THE DEED OF SALE (EXHIBIT 2) IS VALID AND COULD LEGALLY CONVEY TO PRIVATE RESPONDENT OWNERSHIP AND TITLE OVER THE SUBJECT PROPERTY.
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> III -
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> RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT HEREIN PETITIONERS HAD LOST THEIR RIGHT TO RECOVER THE SUBJECT PROPERTY BY VIRTUE OF THE EQUITABLE PRINCIPLE OF LACHES.
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> IV-
>
> RESPONDENT COURT OF APPEALS ERRED IN NOT HOLDING THAT PRIVATE RESPONDENT'S RIGHT OF ACTION UNDER THE DEED OF SALE (EXHIBIT "2") HAD PRESCRIBED.[4]

As correctly pointed out by the Court of Appeals, the pivotal issue in the instant case is whether or not the deed of sale is valid and if it effectively conveyed to the private respondents the subject property.

In ruling in favor of the petitioners, the trial court refused to give weight to the evidence of private respondent which consisted of (1) the handwritten and unnotarized deed of sale executed by Soledad Biona in favor of the private respondent; and (2) the corresponding acknowledgment receipt of the amount of P3,500.00 as partial payment for the land in dispute. To the mind of the trial court, the signature of Soledad Biona on the deed of sale was not genuine. There was no direct evidence to prove that Soledad Biona herself signed the document. Moreover, the deed of sale was not notarized and therefore, did not convey any rights to the vendee. The trial court also ruled that petitioners' rights over the land have not allegedly prescribed.

On the other hand, the respondent Court of Appeals accepted as genuine the deed of sale (Exh. 2) which "sets forth in unmistakable terms that Soledad Biona agreed for the consideration of P4,500.00, to transfer to defendant-appellant Lot 177. The fact that payment was made is evidenced by the acknowledgment receipt for P3,500.00 (Exh. 3) signed by Soledad Biona, and private respondent previous delivery of P1,000.00 to her pursuant to the Mutual Agreement (Exh. 1).

The contract of sale between the contracting parties was consummated by the delivery of the subject land to private respondent who since then had occupied and cultivated the same continuously and peacefully until the institution of this suit."[5]

Given the contrary findings of the trial court and the respondent court, there is a need to re-examine the evidence altogether. After a careful study, we are inclined to agree with the findings and conclusions of the respondent court as they are more in accord with the law and evidence on record.

As to the authenticity of the deed of sale, we subscribe to the Court of Appeals' appreciation of evidence that private respondent has substantially proven that Soledad Biona indeed signed the deed of sale of the subject property in his favor. His categorical statement in the trial court that he himself saw Soledad Estrobillo affix her signature on the deed of sale lends credence. This was corroborated by another witness, Mamerto Famular. Although the petitioners consider such testimony as self-serving and biased,[6] it can not, however, be denied that private respondent has shown by competent proof that a contract of sale where all the essential elements are present for its validity was executed between the parties.[7] The burden is on the petitioners to prove the contrary which they have dismally failed to do. As aptly stated by the Court of Appeals:

> Having established the due execution of the subject deed of sale and the receipt evidencing payment of the consideration, the burden now shifted to plaintiffs-appellees to prove by contrary evidence that the property was not so transferred. They were not able to do this since the very person who could deny the due execution of the document, Soledad Biona, did not testify. She similarly failed to take the witness stand in order to deny her signatures on Exhs. 2 and 3. Admitting as true that she was under medication in Manila while the hearing of the case was underway, it was easy enough to get her deposition. Her non-presentation gives rise to the presumption that if her testimony was taken, the same would be adverse to the claim by plaintiffs-appellees.
>
> It must also be noted that under Sec. 22 Rule 132 of our procedural law, evidence respecting handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered. Our own close scrutiny of the signature of Soledad Biona appearing on Exh. 1, the document admitted by the contending parties, reveals that it is the same as the signatures appearing on Exhs. 2 and 3, the documents in dispute. Admittedly, as was pointed out by the trial court, the "S" in Exhs. 2 and 3 were written in printed type while that in Exh. 1 is in handwriting type. But a careful look at the text of Exh. 2 would reveal that Soledad Biona alternately wrote the letter "S" in longhand and printed form. Thus, the words "Sum" and "Sept.," found in the penultimate and last paragraphs of the document, respectively, were both written in longhand, while her name appearing on first part of the document, as well as the erased word "Sept." in the last paragraph thereof were written in printed form. Moreover, all doubts about the genuineness of Soledad Biona's signatures on Exhs. 2 and 3 are removed upon their comparison to her signature appearing on the special power of attorney (Exh. A) presented in evidence by plaintiffs-appellees during trial. In said document, Soledad Biona signed her name using the same fact that Soledad Estrobillo Biona wrote her entire name on Exh. 2 while she merely affixed her maiden name on the other two documents may have been due to the lesser options left to her when the lawyers who drafted the two documents (Exhs. 2 and 3) already had typewritten the names "SOLEDAD ESTROBILLO" thereon whereas in Exh. 2, it was Soledad Biona herself who printed and signed her own name. Thus, in the special power of attorney (Exh. A), Soledad Biona signed her name in the same manner it was typewritten on the document.[8]

We agree with the private respondent that all the requisites for a valid contract of sale are present in the instant case. For a valuable consideration of P4,500.00, Soledad Biona agreed to sell and actually conveyed the subject property to private respondent. The fact that the deed of sale was not notarized does not render the agreement null and void and without any effect. The provision of Article 1358 of the Civil Code[9] on the necessity of a public document is only for convenience, and not for validity or enforceability.[10] The observance of which is only necessary to insure its efficacy, so that after the existence of said contract had been admitted, the party bound may be compelled to execute the proper document.[11] Undeniably, a contract has been entered into by Soledad Biona and the private respondent. Regardless of its form, it was valid, binding and enforceable between the parties. We quote with favor the respondent court's ratiocination on the matter:

> xxx The trial court cannot dictate the manner in which the parties may execute their agreement, unless the law otherwise provides for a prescribed form, which is not so in this case. The deed of sale so executed, although a private document, is effective as between the parties themselves and also as the third persons having no better title, and should be admitted in evidence for the purpose of showing the rights and relations of the contracting parties (Carbonell v. Court of Appeals, 69 SCRA 99; Elumbaring v. Elumbaring, 12 Phil. 384). Under Art. 1356 of the Civil Code, contracts shall be obligatory in whatever form they may have been entered into provided all the essential requisites for their necessary elements for a valid contract of sale were met when Soledad Biona agreed to sell and actually conveyed Lot 177 to defendant-appellant who paid the amount of P4,500.00 therefore. The deed of sale (Exh. 2) is not made ineffective merely because it is not notarized or does not appear in a public document. The contract is binding upon the contracting parties, defendant-appellant and Soledad Biona, including her successors-in-interest. Pursuant to Art. 1357, plaintiffs-appellees may be compelled by defendant-appellant to execute a public document to embody their valid and enforceable contract and for the purpose of registering the property in the latter's name (Clarin v. Rulona, 127 SCRA 512; Heirs of Amparo v. Santos, 108 SCRA 43; Araneta v. Montelibano, 14 Phil. 117).[12]

Finally, we find no merit in petitioners' contention that their right over the land has not prescribed. The principle of laches was properly applied against petitioner. 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 has either abandoned it or declined to assert it.[13] In the instant case, the Court of Appeals point to the circumstances that warrant the principle to come into play:

> Laches had been defined to be such neglect or omission to assert a right taken in conjunction with the lapse of time and other circumstances causing prejudice to an adverse party, as will bar him in equity (Heirs of Batiog Lacamen v. Heirs of Laruan, 65 SCRA 605, 609-610). In the instant suit, Soledad Biona, at the time of the execution of the deed of sale (Exh. 2) on September 11, 1961, could only alienate that portion of Lot 177 belonging to her, which is seven-twelfths of the entire property. She had no power or authority to dispose of the shares of her co-owners, the five daughters of the deceased Ernesto Biona, who were entitled to an indivisible five-twelfths portion of the whole property. It is not disputed, however, that as early as 1960, when Soledad Biona borrowed money from defendant-appellant (Exh. L), the latter entered, possessed and started occupying the same in the concept of an owner. He caused its cultivation through various tenants under Certificates of Land Transfer (Exhs. 7-9), declared the property in his name, religiously paid taxes thereon, reaped benefits therefrom, and executed other acts of dominion without any protest or interference from plaintiffs-appellees for more than twenty-five years. Even when the five daughters of the deceased Ernesto Biona were way past the age of majority, when they could have already asserted their right to their share, no sale in defendant-appellant's favor was ever brought or any other action was taken by them to recover their share. Instead, they allowed defendant-appellant to peacefully occupy the property without protest. Although it is true that no title to registered land in derogation of that of the registered owner shall be acquired by prescription or adverse possession as the right to recover possession of registered land is imprescriptible, jurisprudence has laid down the rule that a person and his heirs may lose their right to recover back the possession of such property and title thereto by reason of laches. (Victoriano v. Court of Appeals, 194 SCRA 19; Lola v. CA, 145 SCRA 439, 449). Indeed, it has been ruled in the case of Miguel v. Catalino, 26 SCRA 234, 239, that:
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> 'Courts can not look with favor at parties who, by their silence, delay and inaction, knowingly induce another to spend time, effort and expense in cultivating the land, paying taxes and making improvements thereof for 30 long years, only to spring from ambush and claim title when the possessor's efforts and the rise of land values offer an opportunity to make easy profit at his expense.'

Thus, notwithstanding the invalidity of the sale with respect to the share of plaintiffs-appellees, the daughters of the late Ernesto Biona, they [allowed] the vendee, defendant-appellant herein, to enter, occupy and possess the

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property in the concept of an owner without demurrer and molestation for a long period of time, never claiming the land as their own until 1985 when the property has greatly appreciated in value. Vigilantibus non dormientibus sequitas subvenit.[14]

WHEREFORE, the Petition is DENIED and the assailed Decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Puno, Pardo, and Ynares-Santiago, JJ., concur.
Davide, Jr., C.J., (Chairman), on official leave.

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[*] This case was transferred to the ponente pursuant to the resolution in A.M. No. 00-9-03-SC.

[-] Re: Creation of Special Committee on Case Backlog dated February 27, 2001.

[1] Rollo, pp. 40-42.

[2] Id., at 60-61.

[3] Id., at 50.

[4] Id., at 11-12.

[5] Id,, at 45.

[6] Rollo, p. 14-15.

[7] See Dizon v. Court of Appeals, 302 SCRA 288 (1999); Villanueva v. Court of Appeals, 267 SCRA 89 (1997).

[8] Id., at 46-47.

[9] ART. 1358. The following must appear in a public document:

> (1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property; sales of real property or of an interest therein are governed by Articles 1403, No. 2, and 1405;
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> (2) The cession, repudiation or renunciation of hereditary rights or of those of the conjugal partnership of gains;
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> (3) The power to administer property, or any other power which has for its object an act appearing or which should appear in a public document, or shuld prejudice a third person;
>
> (4) The cession of actions or rights proceeding from an act appearing in a public document.
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> All other contracts where the amount involved exceeds five hundred pesos must appear in writing, even a private one. But sales of goods, chattels or things in action are governed by Articles 1403, No. 2 and 1405.

[10] Caoili v. Court of Appeals, 314 SCRA 345 (1999).

[11] Cenido v. Apacionado, 318 SCRA 688 (1999).

[12] Id., at 48.

[13] Vda. De Cabrera v. CA, 267 SCRA 339, 355 (1997).

[14] Rollo, pp. 48-50.

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