

HEIRS OF JUANA GAUDIANE, NAMELY: DATIVA M. PASTOR, MARIA M. ALCORIZA, BEATRIZ M. PATROCIÑO, SOLOMON I. MARIÑO, BENJAMIN I. MARIÑO, LILI MARIÑO, VERONICA I. MARIÑO, SEVERINA MARI...

G.R. No. 119879. March 11, 2004

Ponente: CORONA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-119879/>

CORONA, J.:

Before us is a petition for review of the decision[1] dated February 24, 1995 of the Court of Appeals[2] affirming the decision[3] dated March 27, 1991 of the Regional Trial Court of Dumaguete City, Branch 34, ordering the partition of Lot 4389 and directing the petitioners to make an accounting of the rentals and profits they have obtained from the said lot from the time the case was filed and to remit to respondents their one-half share thereof.

The facts, as found by the courts a quo, follow.

The lot in controversy is Lot 4389 located at Dumaguete City and covered by Original Certificate of Title No. 2986-A (OCT 2986-A) in the names of co-owners Felix and Juana Gaudiane. Felix died in 1943 while his sister Juana died in 1939. Herein respondents are the descendants of Felix while petitioners are the descendants of Juana.

On November 4, 1927, Felix executed a document entitled *Escritura de Compra-Venta* (*Escritura*, for brevity) whereby he sold to his sister Juana his one-half share in Lot No. 4156 covered by Transfer Certificate of Title No. 3317-A. The *Escritura* described the lot sold as follows:

A parcel of land (Lot No. 4156 of the Cadastral Survey of Dumaguete), with the improvements thereon, situated in the Municipality of Dumaguete. Bounded on the NE. and E. by Lot No. 4155; on the SW. by Lots Nos. 4157 and 4158; and on the NW. by Lot No. 4154. Containing an area of five hundred and fifty-two (552) square meters, more or less.

What muddled the otherwise clear contract of sale was a statement in the *Escritura* that Lot No. 4156 was declared under Tax Declaration No. 18321. However, said tax declaration was for another parcel of land, Lot 4389 and not Lot 4156.

Petitioners' predecessors-in-interest, Geronimo and Ines Iso (the Isos), believed that the sale by Felix to their mother Juana in 1927 included not only Lot 4156 but also Lot 4389. In 1974, they filed a pleading in the trial court seeking to direct the Register of Deeds of Dumaguete City to cancel OCT 2986-A covering Lot 4389 and to issue a new title in favor of the Isos. This was later withdrawn after respondents' predecessors-in-interest, Procopio Gaudiane and Segundo Gaudiane, opposed it on the ground that the Isos falsified their copy of the *Escritura* by erasing "Lot 4156" and intercalating in its place "Lot 4389."

The Isos again tried their luck to acquire title in their name by filing in 1975 a case for quieting of title of Lot 4389 but the same was dismissed without prejudice.

The Isos later filed another action for quieting of title, docketed as Civil Case No. 6817, but it was again dismissed[4] on January 10, 1985 by the RTC of Negros Oriental, Branch 35, due to the failure of the plaintiffs (the Isos) to prosecute and to comply with the orders of the court. When the judgment became final, respondents sent a letter to Ines Iso asking her to surrender the possession of the one-half portion of Lot No. 4389 comprising Felix' share. The Isos refused.

On August 20, 1986, the respondents filed the present case for partition of Lot 4389, accounting of proceeds and damages against herein petitioners.

On March 27, 1991, the trial court rendered a decision in favor of the respondents, the dispositive portion of which read:

WHEREFORE, judgment is hereby rendered ordering the partition of the land in question, i.e., Lot No. 4389 of the Dumaguete Cadastre, covered by Original Certificate of Title No. 2986-A, in the names of Felix Gaudiane and his sister Juana Gaudiane, consisting of 36,988 square meters, between the plaintiffs and the defendants in the following proportion: one-half (1/2) share will go to the heirs of the late Felix Gaudiane, (1/2) share will go to the heirs of the late Juana Gaudiane, defendants herein.

The defendants who are in possession of the subject property are likewise directed within thirty (30) days from receipt of this decision to make an accounting of the rents and profits they may have obtained from the real estate in question, from the time this action was instituted, and to remit to plaintiffs their proportionate one-half (1/2) share thereof.[5]

According to the trial court, Felix did not sell to Juana his one-half share in Lot 4389. The Escritura clearly stated and described that what was sold was Lot 4156, not Lot 4389. Had it been his intention to include Lot 4389, he would have so identified and described it in the deed of sale. The fact that the title to Lot 4389 was still in the names of siblings Felix and Juana was proof that the subject lot continued to be under their co-ownership. The trial court refused to give weight to the tax declarations supposedly evidencing petitioners' exercise of ownership over said lot after discovering that said declarations did not state the lot number or the certificate of title number.

The trial court also ruled that the dismissal of petitioners' second case for quieting of title due to failure to prosecute and for failure to comply with court orders had the effect of adjudication on the merits, pursuant to the Rules of Court. Consequently, petitioners' claim of exclusive ownership over Lot 4389 was without merit because it was barred by the order of dismissal dated January 10, 1985 in Civil Case No. 6817.

As to whether the respondents lost by prescription their right to their share in the lot, the trial court held that a title, once registered, could not be defeated even by adverse, open and notorious possession. Laches did not also set in because, when petitioners repudiated the respondents' share in the second case for quieting of title, the latter immediately opposed the move. They were therefore never negligent in pursuing their rights.

On appeal, the Court of Appeals affirmed the decision of the trial court.[6]

The appellate court reiterated the reasons of the trial court in holding that Felix never sold his share in Lot 4389 to Juana. The order of dismissal of the action for quieting of title was not appealed and therefore the issues raised therein involving the same lot could not be raised in the subject action anymore. Lastly, according to the Court of Appeals, the doctrine that a titled lot may be acquired by prescription in certain exceptional circumstances could not apply in the case at bar for the reason that herein petitioners employed fraud in claiming exclusive ownership over Lot 4389.

Hence, this petition for review based on the following assignment of errors:

I

The respondent honorable court gravely erred in affirming that what was sold by the late Felix Gaudiane to his sister Juana Gaudiane was his one-half (1/2) share of another land, Lot No. 4156, covered by Original Certificate of Title No. 2986-A, pursuant to the Escritura de Compra Venta, Exhibit "A" dated November 4, 1927, disregarding the documentary evidence of the petitioners as well as the testimonial evidence adduced by the petitioners;

II

That the respondent honorable court gravely erred in finding that the argument of the petitioners with reference to the second assignment of error to the effect that the dismissal of the complaint for questing of title, docketed as civil case no. 6817 did not bar them from interposing as a defense in the case at bar their cause of action in civil case no. 6817;

III

That respondent honorable court gravely erred by not giving due course to the claim of petitioners and legal effect of prescription and laches adverted by defendants-appellants in their answer and affirmative defenses proven during the hearing by documentary and testimonial evidence.[7]

Unconvinced by the rulings of the courts a quo, petitioners reiterate their arguments to support their claim of exclusive ownership of Lot 4389.

Petitioners insist on their ownership over Felix' share in said lot on the ground that the Escritura expressly mentioned Tax Declaration No. 18321 representing payment of taxes for Lot 4389. We disagree. As found by the courts a quo, a thorough reading of the Escritura reveals that Felix intended to sell his share in Lot 4156 only. In fact, only Lot 4156 was described in the Escritura. Consequently, the citation of Tax Declaration No. 18321 vis-à-vis Lot 4156 was clearly a mistake. Even the petitioners' predecessors-in-interest, the Isos, believed that Lot 4389 was not included in the Escritura because they erased "Lot 4156" and fraudulently replaced it with "Lot 4389" in their prayer to cancel OCT 2986-A. Had they honestly believed that Lot 4389 was included in the sale, there would have been no need for them to resort to falsification. Moreover, if Felix had really sold his share in Lot 4389 to Juana, the latter would have had the title to the property transferred to her name alone. But she never did and the title to Lot 4389 continued to be in the names of both Felix and Juana.

According to the petitioners, the order dated January 10, 1985 in Civil Case No. 6817 of the RTC of Negros Oriental, Branch 35, dismissing their case for quieting of title on the ground of failure to prosecute and to comply with the lawful orders of the court was erroneously issued, considering that all the plaintiffs therein (petitioners), except their counsel, failed to attend the supposed hearing. And assuming arguendo that the order was dismissal with prejudice, petitioners contend that they are not barred from raising the defense of exclusive ownership in the instant case for partition because their present defense was not the issue in the case for quieting of title. Also, the effect of said order was effectively waived when the petitioners were allowed during the trial to present evidence of their exclusive ownership of Lot 4389 without any objection from the respondents.

Petitioners' arguments are misplaced.

We cannot delve anymore into the legality and validity of the order of dismissal dated January 10, 1985 in Civil Case No. 6817 because it has long become final and executory for failure of the petitioners to file an appeal. In accordance with Section 3, Rule 17 of the 1997 Rules of Civil Procedure,[8] said order had the effect of judgment on the merits although no trial was conducted because it did not contain any statement that the case was dismissed without prejudice to the filing of a similar future action. As such, based on the principle of res judicata,[9] the petitioners are barred in another action (involving the same subject matter, parties and issues) from raising a defense and from asking for a relief inconsistent with an order dismissing an earlier case with prejudice.

Petitioners argue that *res judicata* does not apply in the case at bar for the reason that a petition to quiet title has a cause of action different from a petition for partition.

We do not think so.

In *Medija vs. Patcho, et al.*, [10] we ruled that a case for partition and an action for quieting of title have identical causes of action and can therefore be the subject of *res judicata*:

Is there identity of cause of action between the first and second actions? The answer is yes. The fact that Civil Case No. 1884, filed by the appellees against the appellant was for partition of the hereditary estate with accounting of fruits of several parcels of land, while Civil Case No. 2665, brought by appellant against the appellees, was for quieting of title over two parcels which are parts of the same properties subject of the previous case, does not remove the present proceeding from the operation of the principle of bar by former judgment. As specifically stated in the decision of the Court of Appeals in Civil Case No. 1884, now final and executory, the right of therein plaintiffs (appellees herein) to partition the several parcels of land was based on Article 1103 of the Civil Code. The appellees' right to ownership is based on succession they being heirs of the deceased Lorenzo Morante. What the appellant did is to institute another action which would preclude the execution of the judgment of the lower court in Civil Case No. 1884. It must be remembered that a change in the form of action or in the relief sought does not remove a proper case from the application of *res judicata*. In other words, a party cannot, by varying the form of action, or adopting a different method of presenting his case, escape the operation of the principle that one and the same cause of action shall not be twice litigated between the same parties (*Ramos vs. Pangasinan Transportation Company, Inc.*, 79 SCRA 171; *Aguila vs. J.M. Tuason & Co., Inc.*, 22 SCRA 690, citing *Clemente vs. H.E. Heacock Co.*, G.R. No. L-23212, May 18, 1967; *Francisco vs. Blas*, 93 Phil. 43). [11]

Petitioners filed an action to quiet title for the sole purpose of claiming for themselves exclusive ownership of Lot 4389. On the other hand, in the case for partition filed by respondents, petitioners set up the defense of sole dominion in order to frustrate the equal division of the property between the heirs of Felix and Juana. Considering the similarity of petitioners' defense in this case with their main averment in the case for quieting of title, petitioners are barred by *res judicata* from claiming sole ownership of Lot 4389.

We also find that respondents never waived their right to object to petitioners' barred defense of exclusive ownership. While the petitioners were allowed in the subject case for partition, accounting and damages to present their evidence of exclusive ownership, the respondents' failure to oppose did not mean that the latter waived their right to object to the petitioners' evidence. For reasons of public policy, *res judicata* cannot be waived by a party because the time and energy of the State and the taxpayers are wasted by the re-litigation of settled issues. That is the reason why, under Rule 9 of the 1997 Rules of Civil Procedure, a trial court may dismiss a case *motu proprio* on grounds of *res judicata* although it is not raised, and apparently waived, in a motion to dismiss or answer. Conversely, a plaintiff, or the trial court itself, may invoke *res judicata* to resist a defense barred by prior judgment even after trial on the merits.

Lastly, petitioners argue that they acquired Felix' share in the lot in question through prescription and laches. As a general rule, ownership over titled property cannot be lost through prescription. [12] Petitioners, however, invoke our ruling in *Tambot vs. Court of Appeals* [13] which held that titled property may be acquired through prescription by a person who possessed the same for 36 years without any objection from the registered owner who was obviously guilty of laches.

Petitioners' claim is already rendered moot by our ruling barring petitioners from raising the defense of exclusive ownership due to *res judicata*. Even assuming *arguendo* that petitioners are not so barred, their contention is erroneous. As correctly observed by the appellate court:

The TAMBOT case is inapplicable. The case of Bicarme vs. Court of Appeals would be more in point. In the case at bar, appellees' predecessor-in-interest fraudulently denied possession of one-half of Lot No. 4389 to appellants by misrepresenting the Escritura executed by Felix Gaudiane included not only Lot No. 4156 but also Lot No. 4389. That of course is not true. As explained earlier, only Lot No. 4156 was sold. It was through this misrepresentation that appellees' predecessor-in-interest succeeded in withholding possession of appellees' share in Lot No. 4389. Appellees cannot, by their own fraudulent act, benefit therefrom by alleging prescription and laches.[14]

WHEREFORE, the petition is DENIED. Costs against the petitioners.

SO ORDERED.

Vitug, (Chairman), Sandoval-Gutierrez, and Carpio-Morales, JJ., concur.

[1] Penned by Associate Justice Antonio Solano and concurred in by Associate Justices Minerva Gonzaga-Reyes (former Associate Justice of the Supreme Court) and Eduardo Montenegro; Rollo, pp. 51-56.

[2] Thirteenth Division.

[3] Penned by Judge Rosendo B. Bandal, Jr.; Court of Appeals Records, pp. 61-72.

[4] Penned by Judge German G. Lee, Jr.; Exh. "D."

[5] Court of Appeals Records, p. 71.

[6] Rollo, p. 21.

[7] Rollo, pp. 39-40.

[8] SEC. 3. Dismissal due to fault of plaintiff. – If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of adjudication on the merits, unless otherwise declared by the court.

[9] The requisites for res judicata to apply are: (1) the former judgment or order must be final; (2) the Court which rendered said judgment or order must have jurisdiction over the subject matter and the parties; (3) said judgment or order must be on the merits; and (4) there must be between the first and second actions identity of parties, subject matter and cause of action. (Sandoval Shipyards, Inc. vs. Pepito, 359 SCRA 555 [2001].)

[10] 132 SCRA 540 [1984].

[11] Id., p. 549-550.

[12] Board of Liquidators, et al., vs. Roxas, 179 SCRA 809 [1989].

[13] 181 SCRA 202 [1990].

[14] Rollo, pp. 55-56.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.