

HEIRS OF SEGUNDA MANINGDING, REPRESENTED BY DELFIN, GIL, EMMA, MANUEL, RACQUEL, ESTER, REMEDIOS AND JESSIE, ALL SURNAMED PARAYNO, MAXIMA PARAYNO, LEONARDO PARAYNO AND FELICISIMA...*G.R. No. 121157. July 31, 1997*

Ponente: BELLOSILLO, J.

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This is an action for annulment of documents, accounting and partition of two (2) parcels of land, a riceland and a sugarland, situated in Calasiao, Pangasinan. Petitioners claim that they, together with private respondents Luis and Eriberta Bauzon, own the disputed lots in common and pro-indiviso. Luis and Eriberta, the latter represented by her husband Placido Zulueta, aver that their father Roque Bauzon was the owner of the subject lots by virtue of a deed of donation propter nuptias. Roque, together with Juan Maningding, Maria Maningding and Segunda Maningding were the surviving children of Ramon Bauzon y Untalan who died intestate in 1948. According to petitioners, Roque Bauzon repudiated the co-ownership over the sugarland in 1965 and adjudicated it to himself,[1] and that in 1970 Juan and Maria Maningding renounced and quitclaimed their shares over the riceland in favor of Roque Bauzon by virtue of an Affidavit of Quitclaim and Renunciation.[2] Subsequently, Roque Bauzon transferred the riceland to his son Luis Bauzon and the sugarland to his daughter Eriberta Bauzon, both transactions being evidenced by deeds of sale.

On 31 July 1979 Segunda Maningding died. Her heirs allegedly discovered the transfers made by Roque Bauzon in favor of his children only in 1986. Consequently, the heirs sought the partition of the properties as well as the accounting of the produce but were unsuccessful.

On the other hand private respondents aver that the Affidavit of Quitclaim and Renunciation over the riceland was executed not only by Juan Maningding and Maria Maningding but also by Segunda Maningding. With regard to the sugarland, Roque Bauzon denied having executed the Affidavit of Self-Adjudication presented by petitioners. He claimed that he acquired ownership over both the sugarland and the riceland by donation propter nuptias from his parents Ramon Bauzon and Sotera Zulueta on 21 April 1926 in consideration of his marriage to Petra Loresco. Since the death of Ramon Bauzon in 1948, Roque had been in open, continuous, notorious, adverse and actual possession of the subject properties.

The trial court found that the parcels of land formed part of the estate of Ramon Bauzon and his wife Sotera Zulueta which, upon their death, devolved by right of succession to their children Segunda Maningding, Maria Maningding, Juan Maningding and Roque Bauzon in equal pro-indiviso shares. The court a quo however awarded both parcels to Segunda Maningding and Roque Bauzon as co-owners in equal shares after finding that Juan Maningding and Maria Maningding had already executed an Affidavit of Quitclaim and Renunciation. It rejected the deed of donation for failure to prove its due execution and authenticity and ruled that the same was negated by the Affidavit of Quitclaim and Renunciation of Juan Maningding and Maria Maningding in favor of Roque

Bauzon and nullified the deed of sale by Roque Bauzon in favor of Luis Bauzon as regards the riceland and to Eriberta Bauzon with respect to the sugarland. It concluded that Roque Bauzon could not have validly conveyed both parcels as one-half (1/2) of each parcel rightfully belonged to Segunda Maningding and her heirs.

The Court of Appeals however ruled that the properties validly pertained to Roque Bauzon by virtue of the donation propter nuptias. Consequently, the transfers made by Roque Bauzon must be given effect. However, upon motion for reconsideration, the same deed of donation was declared null and void by the appellate court for failure to comply with Art. 633 of the old Civil Code, the law then applicable, which required for the validity of the deed of donation to be in a public instrument. Nevertheless, the same court maintained that the properties belonged to Roque Bauzon by virtue of acquisitive prescription.

We agree with the Court of Appeals. Roque Bauzon acquired ownership over the subject properties by acquisitive prescription. Prescription, in general, is a mode of acquiring (or losing) ownership and other real rights through the lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse.[3] Acquisitive prescription is either ordinary or extraordinary.[4]

Ordinary acquisitive prescription requires possession in good faith and with just title for ten (10) years. In extraordinary prescription ownership and other real rights over immovable property are acquired through uninterrupted adverse possession thereof for thirty (30) years, without need of title or of good faith.[5]

The disputed lots are unregistered lands, both parcels being covered only by tax declarations formerly in the name of Ramon Bauzon and now transferred to Luis and Eriberta Bauzon. While tax declarations and receipts are not conclusive evidence of ownership, yet, when coupled with proof of actual possession, as in the instant case, tax declarations and receipts are strong evidence of ownership.[6]

Even assuming that the donation propter nuptias is void for failure to comply with formal requisites,[7] it could still constitute a legal basis for adverse possession. With clear and convincing evidence of possession, a private document of donation may serve as basis for a claim of ownership.[8] In *Pensader v. Pensader*[9] we ruled that while the verbal donation under which the defendant and his predecessors-in-interest have been in possession of the lands in question is not effective as a transfer of title, still it is a circumstance which may explain the adverse and exclusive character of the possession. In *Espique v. Espique*[10] we held -

There is no question that the donation in question is invalid because it involves an immovable property and the donation was not made in a public document as required by Article 633 of the old Civil Code, in connection with Article 1328 of the same Code (concerning gifts propter nuptias), but it does not follow that said donation may not serve as basis of acquisitive prescription when on the strength thereof the donee has taken possession of the property adversely and in the concept of owner, or, as this Court well said: 'While the verbal donation, under which the defendants and his predecessors-in-interest have been in possession of the lands in question, is not effective as a transfer of title, yet it is a circumstance which may explain the adverse and exclusive character of the possession' (*Pensader v. Pensader*, 47 Phil. 673, 680). This is also an action for partition. It was shown that the donation of the property was made not even in a private document but only verbally. It was also shown that the defendants, through their predecessors-in-interest, were in adverse and continuous possession of the lands for a period of over 30 years. Yet, the court decided the case in favor of defendants on the ground of acquisitive prescription. There is a close parallelism between the facts of this case and the present.

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We do not need to stretch our mind to see that under such allegations plaintiffs intended to convey the idea that defendant has possessed the lands openly, adversely and without interruption from 1916 to 1949 for he is the

one who has possessed and reaped the whole benefit thereof. As to the character of the possession held by defendant during that period one cannot also deny that it is in the concept of owner considering that the lands were donated to him by his predecessors-in-interest on the occasion of his marriage even if the same was not embodied in a public instrument. The essential elements constituting acquisitive prescription are therefore present which negative the right of plaintiffs to ask for partition of said properties. On this point we find pertinent the following observation of the trial court: 'Any person who claims right of ownership over immovable properties and does not invoke that right but instead tolerated others in possession for thirty years is guilty of laches and negligence and he must suffer the consequence of his acts.'

In the instant case, Roque Bauzon possessed the subject parcels of land in the concept of owner by virtue of the donation propter nuptias. The possession was public as it was Roque Bauzon who personally tilled and cultivated the lots. The acts of reaping the benefits of ownership were manifest and visible to all. These acts were made more pronounced and public considering that the parcels of land are located in a municipality wherein ownership and possession are particularly and normally known to the community. Roque peacefully possessed the properties as he was never ousted therefrom nor prevented from enjoying their fruits. His possession was uninterrupted and in good faith because of his well-founded belief that the donation propter nuptias was properly executed and the grantors were legally allowed to convey their respective shares in his favor. He likewise appropriated to himself the whole produce of the parcels of land to the exclusion of all others.

The donation propter nuptias was effected as early as 21 April 1926. It was only in 1986 when the heirs of Segunda Maningding demanded partition of the properties and conveyance of the produce. Sixty (60) years have already elapsed. Even granting that Roque Bauzon possessed the properties only upon the death of his father in 1948, more than thirty (30) years have already passed. In either case, acquisitive prescription has already set in in favor of Roque Bauzon.

Again, even if we assume the absence of good faith and just title, the ownership of the two (2) parcels would still appertain to Roque Bauzon. As testified to by Delfin Parayno, one of petitioners, Roque Bauzon and his heirs had been in continuous, adverse and public possession of the property since 1948 up to 1986, or a period of thirty-six (36) years, which is more than the required thirty-year extraordinary prescription.

Prescription, as a rule, does not run in favor of a co-heir or co-owner as long as he expressly or impliedly recognizes the co-ownership.[11] Co-owners cannot acquire by prescription the share of the other co-owners, absent a clear repudiation of the co-ownership. In order that title may prescribe in favor of one of the co-owners, it must be clearly shown that he has repudiated the claims of the others, and that they were apprised of his claim of adverse and exclusive ownership, before the prescriptive period would begin to run. Mere refusal to accede to a partition, without specifying the grounds for such refusal, cannot be considered as notice to the other co-owners of the occupant's claim of title in himself in repudiation of the co-ownership. The evidence relative to the possession, as a fact upon which the alleged prescription is based, must be clear, complete and conclusive in order to establish said prescription without any shadow of doubt; and when upon trial it is not shown that the possession of the claimant has been adverse and exclusive and opposed to the rights of the others, the case is not one of ownership, and partition will lie.[12]

Therefore while prescription among co-owners cannot take place when the acts of ownership exercised are vague and uncertain, such prescription arises and produces all its effects when the acts of ownership do not evince any doubt as to the ouster of the rights of the other co-owners.[13] As disclosed by the records, Roque Bauzon and his heirs possessed the property from 1948 to 1986 to the exclusion of petitioners who were never given their shares of the fruits of the properties, for which reason they demanded an accounting of the produce and the conveyance to them of their shares. Unfortunately they slept on their rights and allowed almost thirty-six (36) years to lapse before attempting to assert their right. Perforce, they must suffer the consequence of their inaction.

WHEREFORE, the petition is DENIED. The Resolution of the Court of Appeals of 7 July 1995 which modified its Decision of 29 November 1994 and holding that the deceased Roque Bauzon acquired the disputed two (2) parcels of land by acquisitive prescription is AFFIRMED. Costs against petitioners.
SO ORDERED.

Padilla, (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Annex “B,” Records.

[2] Annex “A,” id

[3] Paras, Edgardo L., Civil Code of the Philippines, Vol. IV, 1994 ed., p. 1.

[4] Art. 1117, New Civil Code.

[5] Art. 1137, id.

[6] Bautista v. Court of Appeals, No. L-43105, 31 August 1984, 131 SCRA 533; Director of Lands v. Court of Appeals, G.R. No. 50340, 26 December 1984, 133 SCRA 701.

[7] Art. 633 of the old Civil Code requires for the validity of a deed of donation propter nuptias that it be in a public instrument.

[8] Cabautan v. Serrano, No. L-24112, 26 May 1960, 57 O.G. 292 (1961).

[9] 47 Phil. 959 (1925).

[10] No. L-8029, 28 June 1956, 53 O.G. 4080-4082 (July, 1957).

[11] David v. Bandin, No. L-48322, 8 April 1987, 149 SCRA 140.

[12] Mariano v. De Vega, G.R. No. 59974, 9 March 1987, 148 SCRA 342, 346-347, citing Tolentino, Arturo M., Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. 2, 1983 ed., pp. 224-225.

[13] Tolentino, Arturo M., Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. 2, 1983 ed., p. 181.

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