

**GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), PETITIONER,
VS. HON. COURT OF APPEALS, (THIRTEENTH DIVISION), JOSE
SALONGA, TAN KIAT TIAN AND JOSEFINA USMAN JOINED BY HER
HUSBAND ...**

G.R. No. 128471. March 06, 1998

Ponente: ROMERO, J.

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ROMERO, J.:

This is a petition for review of the decision of the Court of Appeals in CA-G.R. CV No. 44058 entitled “Jose Salonga, et al v. Queen’s Row Subdivision Inc, Government Service Insurance System, et al.”[1] dated February 27, 1997, involving an action for declaration of ownership and cancellation of title.

Private respondents Jose Salonga, Tan Kiat Tan, and Josefina Usman were registered co-owners pro-indiviso of two parcels of land located at Molino, Bacoor, Cavite with Transfer Certificate of Titles Nos. T-32452 and T-32453 issued by the Register of Deeds of Cavite on November 5, 1968.[2] The property was collectively conveyed to them by Emiliano Bunag and Raymundo Catienza by virtue of a Deed of Sale dated October 31, 1968.

Sometime in 1974, the Municipal Treasurer of Cavite refused private respondents’ payment for real estate taxes of the property on the ground that the tax declarations of the property were already cancelled. Upon investigation, they discovered that new tax declarations and titles of the said property were issued in the name of Queen’s Row Subdivision, Inc. (QRSI). TCT No. T-32453 was superseded by TCT No. T-54244, issued on August 27, 1971, while TCT No. T-32452 was now covered by TCT No. T-54192, issued on August 17, 1971, both in the name of QRSI.[3]

On June 17, 1974, private respondents sent a letter-complaint to the Public Assistance Office (PAO) of the then Ministry of National Defense seeking assistance and asking for an immediate investigation of QRSI and the Register of Deeds of Cavite.[4] No action was, however, taken by the PAO.

On November 13, 1987, private respondents filed an action for declaration of ownership and cancellation of title against QRSI, the Register of Deeds of Cavite, and the Government Service and Insurance System (GSIS) under Civil Case No. BCV-87-36 before the Regional Trial Court of Bacoor, Cavite, Branch 19.

The GSIS was impleaded in the action since records show that it entered into a project and loan agreement with QRSI wherein the former granted the latter a loan in the amount of P14,360,000.00 secured by a real estate mortgage covering QRSI’s properties in Molino, Bacoor, Cavite totalling an area of 1,300,000 square meters. Among the properties included as collateral were private respondents’ two lots. Upon QRSI’s default in payment, the properties were extrajudicially foreclosed by the GSIS.

For failure to file an Answer within the reglementary period, QRSI and the Register of Deeds of Cavite were both declared in default. The GSIS, on the other hand, filed an Answer, and trial on the merits was conducted.

On July 21, 1992, the trial court rendered a decision[5] in favor of private respondents, the dispositive portion of which reads:

“WHEREFORE, this Court finds for the plaintiffs and against the defendant Queen’s Row Subdivision, Inc., the Government Service Insurance System (GSIS) and the Register of Deeds of Cavite who are hereby ordered to:

1. maintain, revive, and/or reinstate TCT No. T-32452 and TCT No. T-32453 in the names of plaintiffs Tan Kiat Tan, Josefina Usman and Jose Salonga who are hereby declared owners in fee simple of the same;
2. cancel TCT Nos. T-54192 and T-54244 in so far as they affect TCT Nos. T-32452 and T-32453 of plaintiffs from being procured by fraud (Bruce vs Apurado, 26 Phil 838) and for being issued for land already covered by prior Torrens title;
3. the Municipal Treasurer of Bacoor, Cavite to reinstate tax declaration nos. 11715 and 11716 of the said Municipal Treasurer’s Office in the name of plaintiffs;
4. pay attorney’s fees of P/40,000.00 and P/50,000.00 as cost of suit to the plaintiffs.

SO ORDERED.”

The GSIS then appealed the decision to the Court of Appeals, alleging that the trial court erred in its findings. The Court of Appeals dismissed the petition and affirmed the decision of the trial court in toto.[6] Hence, this petition, where petitioner raises the following issues: (a) the Court of Appeals erred in not ruling that petitioner GSIS was a mortgagee and purchaser in good faith; (b) that private respondents’ cause of action has already prescribed; and (c) the Court of Appeals erred in affirming the award of attorney’s fees by the trial court.[7]

The petition must fail.

The GSIS claims that it has a better right over the property as a mortgagee and subsequent purchaser for value in good faith. It argues that it had the right to rely on the face of the certificates of title (T-54192 and T-54244) and it was justified in dispensing with the need for inquiring further since it had no actual knowledge of facts or circumstances that would compel them to make an inquiry. Moreover, it had complied with all the requirements of a valid extrajudicial foreclosure of mortgage and acquired the subject properties as highest bidder free from any lien and encumbrance and without any defect. The GSIS maintains that it should be considered a mortgagee and subsequent purchaser for value in good faith, with a superior right to the property.

These arguments are not persuasive enough.

The GSIS was created for the purpose of providing social security and insurance benefits as well as promoting efficiency and the welfare of government employees.[8]

Under the Government Service Insurance System Act of 1997:[9]

“Sec. 36. Investment of Funds. - The funds of the GSIS which are not needed to meet the current obligations may be invested under such terms and conditions and rules and regulations as may be prescribed by the Board: Provided, that investments shall satisfy the requirements of liquidity, safety, security and yield in order to ensure the actuarial solvency of the funds of the GSIS; x x x”[10]

It should be emphasized that the funds of the GSIS come from the monthly contributions of its members. Thus, its business is to keep in trust money belonging to its members, the government employees.

The GSIS Act grants the GSIS the power to invest its funds, directly or indirectly.[11] Being allowed to engage in financing, the GSIS should, therefore, exercise care and prudence in investing its funds, such as in granting loans.

Although the GSIS is categorized as a social security and insurance entity, its ancillary function of investing funds imposes upon it the duty of exercising due diligence in dealing with properties submitted as collateral for loans.

In the case of *Tomas v. Tomas*,^[12] we had occasion to rule:

“x x x. Banks, indeed, should exercise more care and prudence in dealing even with registered lands, than private individuals, for their business is one affected with public interest, keeping in trust money belonging to their depositors, which they should guard against loss by not committing any act of negligence which amount to lack of good faith by which they would be denied the protective mantle of the land registration statute, Act 496, extended only to purchasers for value and good faith, as well as to mortgagees of the same character and description.”

This doctrine can well be applied to the instant case. The records show that QRSI mortgaged properties located at Molino, Bacoor, Cavite covering an area of 1,300,000 square meters for the construction of 4,493 housing units therein to the GSIS in consideration of the P14,360,000.00 loan granted to it. Private respondents' properties were among those included in the mortgage. QRSI somehow managed to illegally procure its own certificates of title covering private respondents' lots.

The same records, however, fail to reveal that the GSIS exercised due diligence in ascertaining the real owners of TCT Nos. 54192 and 54244. If the GSIS had investigated the same, then it would have learned that said TCTs were illegally obtained. Moreover, it should have been more cautious, considering the substantial amount of the loan granted. Thus, the GSIS cannot assert the defense of good faith, considering that it did not exercise the proper diligence required by the situation.

In *Rural Bank of Compostela v. Court of Appeals, et al.*,^[13] this Court held that if a bank failed to observe due diligence, it is not considered a mortgagee in good faith, thus:

“x x x. Secondly, the rule that persons dealing with registered lands can rely solely on the certificate of title does not apply to banks:

xxx xxx xxx

There is no proof at all that the petitioner observed due diligence in ascertaining who the occupants or owners of the property were, considering that Free Patent No. (VII-I) 939 and OCT No. 0-10288 were just recently issued.

xxx xxx xxx.

All told, the petitioner was not a mortgagee in good faith.”

Petitioner is deemed to have failed to exercise the requisite due diligence in ascertaining if the land mortgaged to it by QRSI covered by TCT Nos. 54192 and 54244 was valid and free from any legal defect. This failure is tantamount to negligence for petitioner cannot simply rely on the face of the title of the property, as its ancillary function of investing funds requires a greater degree of diligence. It cannot, therefore, be considered as a mortgagee and subsequent purchaser in good faith, and necessarily, private respondents are deemed to have a better right over the property.

The contention of petitioner that the cause of action of private respondents has prescribed in the case at bar cannot, likewise, be given consideration. Laches is defined as the failure or neglect, for an unreasonable length of time, to do that which by exercising due diligence, could or should have done earlier. The negligence or omission to assert a right within a reasonable time, warrants a presumption that the party entitled to assert it either has

abandoned it or declined to assert it.[14]

In this case, the records show that when private respondents discovered that the tax declaration of their property was cancelled, they forthwith filed a complaint with the Public Assistance Office of the then Ministry of National Defense seeking an immediate investigation on the matter. When no action was taken by the latter, they then filed a complaint for declaration of ownership and cancellation of title against QRSI, the Registry of Deeds of Cavite and petitioner.

For laches to exist, there should be a showing of delay in asserting the complainant's (herein private respondents') right.[15] Based on the foregoing, it cannot be said that private respondents slept on their rights, inasmuch as from the time they discovered the cancellation of the tax declarations, they immediately filed a complaint to assert their ownership over the property.

As regards the propriety of the monetary award, the appellate court correctly ruled that the trial court was justified in awarding the same since the attorney's fee of P40,000.00 and litigation cost of P50,000.00 were duly proven by private respondents.

The assessment and evaluation for the award of attorney's fees and litigation cost are findings of fact ordinarily left to the trial court for its conclusive determination.

Finally, it is a fundamental and settled rule that factual findings of the trial court, adopted and confirmed by the Court of Appeals, are final and conclusive and may not be reviewed on appeal. This Court finds no justifiable reason or exception[16] to this rule sufficient to cause a reversal of the judgments rendered by both the trial and appellate courts.

WHEREFORE, the instant petition is hereby DENIED. The decision of the Court of Appeals in CA-G.R. CV No. 44058 dated February 27, 1997, is AFFIRMED in toto. No costs.

SO ORDERED.

Narvasa, C.J. (Chairman), Kapunan and Purisima, JJ., concur.

[1] Penned by Associate Justice Artemio Tuquero; Rasul and Hofileña, JJ., concurring.

[2] Rollo, pp. 42-43.

[3] Ibid., p. 43.

[4] Id., pp. 43-44.

[5] Id., pp. 33-34.

[6] Id., pp. 32-38.

[7] Id., pp. 17-19.

[8] Presidential Decree No. 1146, otherwise known as the "Revised Government Service Insurance Act of 1977."

[9] Republic Act No. 8291.

[10] Section 36, R.A. No. 8291.

[11] Section 41 (C).

[12] 98 SCRA 280 (1980).

[13] G.R. No. 122801, April 8, 1997.

[14] Tijam v. Sibonghanoy, 23 SCRA 35 (1968).

[15] Esso Standard Eastern, Inc. v. Alfonso Lim, 123 SCRA 464, 480 (1983).

[16] The exceptions to the rule are: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the Court of Appeals is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings went beyond the issues of the case and the same is contrary to the admissions of the appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial court; (8) when the findings of facts are conclusions without citation of specific evidence on which they are based; (9) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record. Reyes v. Court of Appeals (Ninth Division), 258 SCRA 651 (1996).

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