

HEIRS OF CIPRIANO REYES: RICARDO REYES, DAYLINDA REYES, BEATRIZ REYES, JULIAN CUECO, ESPERANSA REYES, VICTORINO REYES, AND JOVITO REYES, PETITIONERS, VS. JOSE CALUMPANG, GEOFFRE...

G.R. No. 138463. October 30, 2006

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

Say not you know another entirely,
til you have divided an inheritance with him.

Johann Kaspar Lavater

Can a party who lost rights of ownership in a parcel of land due to laches be allowed to regain such ownership when one who benefited from the delay waives such benefit? This is the core issue to be resolved from this Petition for Review on certiorari[1] that seeks to set aside the January 26, 1999 Decision[2] of the Court of Appeals (CA) in CA-GR CV No. 54795 which overturned the April 2, 1996 Decision of the Dumaguete City Regional Trial Court (RTC) in Civil Case No. 9975 declaring null and void the December 27, 1972 Deed of Quitclaim executed by petitioners Jovito Reyes and Victorino Reyes and ordering respondents to vacate Lot No. 3880 in Tanjay, Negros Oriental, remove their houses from the said lot, and pay petitioners attorneys fees of PhP 10,000.00. Also challenged is the March 25, 1999 Resolution[3] which denied petitioners February 12, 1999 Motion for Reconsideration.[4]

The Facts

It is sad and tedious when relatives bicker over inheritance when the differences could have been amicably settled and harmony prevail among relatives. The instant case involves Lot No. 3880 of the Cadastral Survey of Tanjay, Negros Oriental which has a land area of around 25,277 square meters, more or less. Said lot was originally owned by a certain Isidro Reyes, who sired eight children, viz: Victoriana Reyes Manaban, Telesfora Reyes Manaban, Leonardo Reyes, Juan Reyes, Eduarda Reyes, Miguel Reyes, Eleuteria Reyes, and Hermogenes Reyes.

The protagonists are the descendants, specifically the grandchildren, of the three eldest children of Isidro Reyes, namely, Victoriana, Telesfora and Leonardo. To better understand the relation of the parties, it is apt to mention the lineal positions of the pertinent heir-litigants whose names are emphasized for clarity and identity.

1. Daughter Victoriana Reyes Manaban had five children, namely: Antonia Manaban Sta. Cruz, Emerencia Manaban Agala, Juana Manaban Aguilar, Lope Manaban, and Arcadia Manaban Balsamo. a.) Granddaughter Emerencia Manaban Agala had five children, namely: Agapito Agala, Cresencio Agala, Nicasia Agala, Filomena Agala, Baldomera Manaban Alido, and Pelagia Manaban Cueco, the last two being illegitimate children. b.) Granddaughter Antonia Manaban Sta. Cruz had no issue. c.) Granddaughter Juana Manaban Aguilar had eight children, namely: Fructuoso, Salvadora, Delfin, Rufina, Felomina, Ceferino, Lucia, and Cipriano, all surnamed

Aguilar. d.) Grandson Lope Manaban had seven children, namely: Aniana, Lucas, Isidro, Genera, Abadias, Jose, and Gabriela, all surnamed Manaban. e.) Granddaughter Arcadia Manaban Balsamo had seven children, namely: Lucrecia, Bienvenida, Gregoria, Antonio, Moises, Marcela, and Maria, all surnamed Balsamo. Of the grandchildren of Victoriana Reyes Manaban, Agapito Agala and Pelagia Manaban Cueco, are among the respondents in the instant case. Respondent Felipe Cueco was included among the litigants, being the husband of Pelagia Manaban.

2. Daughter Telesfora Reyes Manaban had only one child, Valentin Manaban who in turn had three children, namely: Olympia Manaban Mayormita, Restituto Manaban, and Lorenzo Manaban, all of whom are among the respondents in the instant case.

3. Son Leonardo Reyes had six children, namely: Higino Reyes, Policarpio Reyes, Ines Reyes Calumpang, Exaltacion Reyes Agir, Honorata Reyes, and Sofia Reyes. a.) Grandson Higino Reyes had six children, namely: Victorino, Cipriano, Luis, Ricardo, Jesus, and Daylinda, all surnamed Reyes. b.) Grandson Policarpio Reyes had three children, namely: Beatriz, Guillermo, and Jovito, all surnamed Reyes. Most of the children of Higino and Policarpio Reyes are the petitioners in the instant case. c.) Granddaughter Ines Reyes Calumpang on the other hand had five children, namely: Jose, Pedring, Cesar, Zosima, and Angel, all surnamed Calumpang. Great-grandson Jose Calumpang and his son, Geoffrey Calumpang, a great-great-grandson of Isidro, are among the respondents in the instant case. d.) Granddaughter Exaltacion Reyes Agir had seven children, namely: Rafael Agir, Remedios Agir, Cordova Agir Gabas, Natividad Agir, Rogelio Agir, Ramon Agir, and Zenaida Agir Lopez.

The records do not show the heirs of granddaughters Honorata and Sofia Reyes, the last two children of Leonardo Reyes. Likewise, the records do not mention the heirs of the last five children of Isidro Reyes, namely: Juan, Eduarda, Miguel, Eleuteria, and Hermogenes.

For clarity, a chart showing the family tree originating from Isidro Reyes is provided as follows (with the parties names given emphasis):

See Chart Vol. 536 Phil 803

With the foregoing perspective on the relational positions of the protagonists, we move on to the factual antecedents:

Among Isidro's children, it was Leonardo Reyes, in behalf of his seven (7) siblings, who managed the properties of their father. In 1924, a cadastral survey was conducted pursuant to Act No. 2259. Leonardo, through his representative, Angel Calumpang, filed an answer in the cadastral court naming all eight children of Isidro Reyes as claimants of the said lot.

However, on July 10, 1949, a certain Dominador Agir filed another claim over the disputed lot, this time naming some grandchildren of Leonardo Reyes (great-grandchildren of Isidro Reyes), which included most of the children of Higino and Policarpio Reyes as claimants, namely: Victorino, Cipriano, Luis, Ricardo, and Daylinda all surnamed Reyes, who are the children of Higino Reyes; and Beatriz, Guillermo, and Jovito all surnamed Reyes, who are the children of Policarpio Reyes. Subsequently, on July 19, 1949, a Decision was rendered in Cadastral Case No. 12, G.L.R.O. Cad. Rec. No. 31 which covered four (4) lots, among which is Lot No. 3880, whereby the Decision granted judicial confirmation of the imperfect title of petitioners over said lot. Consequently, Original Certificate of Title (OCT) No. OV-227 was issued on August 5, 1954 in the name of petitioners, namely: Victorino, Cipriano, Luis, Ricardo, Jesus, Daylinda, Jovito, Guillermo, and Beatriz, all surnamed Reyes.

The nine (9) registered co-owners, however, did not take actual possession of the said lot, and it was Victorino

and Cipriano Reyes who paid the land taxes. The heirs of Telesfora Reyes Manaban and Victoriana Reyes Manaban (daughters of Isidro Reyes) retained possession over a hectare portion of the said lot where they built their houses and planted various crops and fruit bearing trees. Meanwhile, sometime in 1968, Jose Calumpang, grandson of Leonardo Reyes and cousin of petitioners, also took possession over a hectare of the said lot, planting it with sugarcane. Thus, Jose Calumpang and his son Geoffrey continued to plant sugarcane over almost a hectare of the said lot while the heirs of Telesfora Reyes Manaban and Victoriana Reyes Manaban the respondents Agalas and Manabans occupied the rest of the same lot which is about one hectare.

Sometime in 1972, respondent Agapito Agala (grandson of Victoriana Reyes Manaban) was informed by his cousin Victorino Reyes, one of the petitioners and registered co-owner of Lot No. 3880, that there was already a title over the said lot. This prompted respondent Agapito Agala and the other heirs of Telesfora and Victoriana to seek advice from a judge who suggested that they request the registered co-owners to sign a quitclaim over the said lot.

A conference was allegedly held on December 27, 1972, where three (3) of the registered co-owners Victorino, Luis, and Jovito all surnamed Rey assigned a Deed of Quitclaim,[5] where, for a consideration of one peso (P1.00), they agreed to release, relinquish and quitclaim all their rights over the land in favor of the legal heirs of the late Victoriana Reyes and Telesfora Reyes.[6]

The Deed of Quitclaim was annotated on the back of OCT No. OV-227. Thereafter, respondent Agapito Agala had the then Police Constabulary (PC) summon the other registered co-owners, namely: Cipriano, Ricardo, Daylinda, Guillermo, and Beatriz, to sign another deed of quitclaim. But the latter allegedly ignored the call, prompting the heirs of Victoriana and Telesfora Reyes to file on June 9, 1975 in Civil Case No. 6238, with the Dumaguete City RTC, Branch 40, a Complaint for Reconveyance of Real Property, Cancellation of Certificate of Title and Damages against the registered co-owners of the disputed lot who did not sign a deed of quitclaim and Dominador Agir, who filed the amended answer in the cadastral proceedings in 1949. On April 28, 1987, the trial court dismissed the complaint and ruled in favor of the registered co-owners of Lot No. 3880. On appeal, the CA upheld the trial court and affirmed the RTC November 29, 1989 Decision.[7] The CA Decision was not raised for review before this Court, thereby attaining finality.

Consequently, on July 2, 1991, petitioners filed the instant civil case for Recovery of Possession, Declaration of Non-existence of a Document, Quieting of Title and Damages against Jose Calumpang, Geoffrey Calumpang, Agapito Agala, Lorenzo Manaban, Heirs of Olympia Manaban, Pelagia Manaban, Felipe Cueco and Heirs of Restituto Manaban (herein respondents) in Dumaguete City RTC. It was docketed as Civil Case No. 9975 and raffled to RTC Branch 44.

In gist, petitioners, as registered owners of Lot No. 3880, alleged that by tolerance they allowed respondents Jose and Geoffrey Calumpang to cultivate an area of about one hectare of the said property; and also by tolerance allowed respondents Manabans and Agalas to occupy another hectare portion of the same lot. They further alleged that in December 1972, petitioners Victorino, Luis, and Jovito Reyes got sick; and believing that they were bewitched by the occupants of the said lot, they signed a Deed of Quitclaim, waiving all their rights and interests over their respective shares in the disputed lot in favor of the heirs of Victoriana and Telesfora Reyes; and that thereafter, the latter filed Civil Case No. 6238 in 1987, which was dismissed by the Dumaguete City RTC.

During the hearing of the instant case, petitioners presented their sole witness, Ricardo Reyes, who testified on the identity of OCT No. OV-227, the character of its possession, existence, and the Decision in the prior Civil Case No. 6238;[8] and the estimated income of the disputed lot, and the expenses incurred in pursuing the instant case.

On the other hand, respondent-heirs of Victoriana and Telesfora Reyes presented Lorenzo Manaban,[9] who

testified on the relationship of respondents to Victoriana and Telesfora Reyes; that they were in actual and adverse possession of Lot No. 3880; and, the existence and due execution of the assailed Deed of Quitclaim in their favor which was duly annotated on the back of OCT No. OV-227. Respondents Jose and Geoffrey Calumpang did not participate in the trial although they filed their answer.

Subsequently, the trial court rendered its judgment on April 2, 1996. The dispositive portion reads:

WHEREFORE, this Court renders judgment declaring NULL and VOID the Deed of Quitclaim dated December 27, 1972 signed by Jovito and Victorino all surnamed Reyes. Ordering defendants to vacate Lot No. 3880, Cadastral Survey of Tanjay and to remove their house thereon; and to pay jointly and severally plaintiffs the sum of P10, 000.00, by way of reimbursement for attorneys fees, and to pay the costs.[10]

Believing that they were the legal and true owners of Lot No. 3880, respondents interposed an appeal to the CA on June 27, 1996, which was docketed as CA-G.R. CV No. 54795.

The Ruling of the Court of Appeals

For non-payment of the requisite docket fee, the appeal of respondent Jose Calumpang was dismissed by the CA on December 19, 1997,[11] and a Partial Entry of Judgment for Appellant Jose Calumpang Only[12] was issued on January 23, 1998.

However, the appeal filed by respondents Agalas and Manabans was found to be meritorious, and on January 26, 1999, the CA reversed the Decision of the trial court and dismissed Civil Case No. 9975. While it ruled that petitioners had a cause of action to institute the case assailing the Deed of Quitclaim as its validity was not disputed in Civil Case No. 6238, upon review of the evidence adduced, the CA found that petitioners utterly failed to present evidence substantiating their allegation of fraud and mistake in the execution of the assailed quitclaim. The CA reasoned out that it was incumbent for petitioners to prove their allegations of fraud and mistake, but they failed to overcome the presumptions that a person takes ordinary care of ones concerns and that private transactions have been fair and regular.

Thus, the CA ruled that the trial court had no basis in fact and in law to declare the Deed of Quitclaim null and void, and concluded that it remained valid and binding to all the signatories. The rights and interests in the shares of Victorino, Luis, and Jovito Reyes over Lot No. 3880 were deemed waived in favor of the heirs of Victoriana and Telesfora Reyes (that is, respondents Agalas and Manabans) who had the right to retain possession of the lot.

Petitioners registered a Motion for Reconsideration of the January 26, 1999 Decision of the CA, which was however turned down in its March 25, 1999 Resolution, as petitioners were unable to raise new substantial issues which had not been duly considered in arriving at the challenged judgment.

Hence, the instant petition.

The Issues

In the instant petition, petitioner raises the following assignment of errors for our consideration:

- (a) In exercising jurisdiction over the appeal of the defendants when in fact the issues are purely questions of law misfiled in the Court of Appeals, which should have been filed directly to the Supreme Court at that time;
- (b) In reversing the RTC Decision dated April 2, 1993; and in reversing its own resolution dated December 19, 1997;
- (c) In declaring that the fraud and mistake in the execution of the waiver was not substantiated, when in fact there is overwhelming evidence of infirmity of the document as found by the trial court, which should not be disturbed on appeal.

(d) In sweepingly dismissing the complaint, including the claim against the Calumpang defendants, even as the latter did not adduce any evidence in the trial court, and whose appeal had already been dismissed by the CA Resolution dated December 19, 1997; and the Calumpang defendants did not also appeal to the Supreme Court from such dismissal.[13]

The Courts Ruling

The petition is partly meritorious.

First Assignment of Error:

There is a Question of Fact

In the first assignment of error, petitioners argue that the appeal of the heirs of Victoriana and Telesfora Reyes should have been filed before this Court and not in the CA since it involves only pure questions of law, that is, whether their counterclaims are barred by the judgment in Cadastral Case No. 12, LRC 311, rendered by the Hon. Roman Ibaez, Judge of the CFI of Negros Oriental, which involves the law on estoppel by judgment, and Sections 38, 39, and 47 of Act 496.

We disagree.

A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances, as well as their relation to each other and to the whole, and the probability of the situation.[14]

The appeal before the CA by respondent-heirs of Victoriana and Telesfora Reyes clearly assails the trial courts decision, inter alia, on the ground of lack of evidence and questions the factual findings of the trial court. This question is undoubtedly one of fact, falling squarely within the exclusive appellate jurisdiction of the Court of Appeals.[15]

The second issue that the CA erred in reversing the April 2, 1993 Decision of the RTC and its resolution dated December 19, 1997 will be jointly discussed with the fourth issue that the CA erred in dismissing the complaint including the claim against the Calumpang defendants.

Third Assignment of Error:

Question of Evidence

In the third assignment of error, petitioners strongly assert that overwhelming evidence of infirmity of the document substantiated the fraud and mistake in the execution of the questioned waiver or deed of quitclaim.

We are not persuaded.

Petitioners failed to adduce evidence

Petitioners admit the execution of the quitclaim by Victorino, Luis, and Jovito, all surnamed Reyes; however, petitioners allege fraud and mistake in its execution. But, as correctly held by the appellate court, petitioners failed to present evidence in support of their allegation. Indeed, even a cursory glance at the records reveals that no evidence was adduced substantiating petitioners allegation of fraud and mistake in the execution of the assailed quitclaim, neither from the documentary evidence formally offered[16] nor from the testimonial evidence of petitioners sole witness, Ricardo Reyes, who testified on the identity of some documents to prove ownership, the character of the possession of the subject lot, and the existence of the Decision in Civil Case No. 6238.

Basic is the rule of *actori incumbit onus probandi*, or the burden of proof lies with the plaintiff. Differently stated, upon the plaintiff in a civil case, the burden of proof never parts.[17] In the case at bar, petitioners must therefore establish their case by a preponderance of evidence,[18] that is, evidence that has greater weight, or is more convincing than that which is offered in opposition to it[19] which petitioners utterly failed to do so. Besides, it is an age-old rule in civil cases that one who alleges a fact has the burden of proving it and a mere allegation is not evidence.[20] Fraud is never presumed, but must be established by clear and convincing evidence.[21] Thus, by admitting that Victorino, Luis, and Jovito, all surnamed Reyes, indeed executed the Deed of Quitclaim coupled with the absence of evidence substantiating fraud and mistake in its execution, we are constrained to uphold the appellate courts conclusion that the execution of the Deed of Quitclaim was valid.

This finding is consonant with the findings of the trial court in the prior Civil Case No. 6238,[22] as affirmed in CA-G.R. CV No. 14527,[23] that while respondents Agalas and Manabans (the heirs of Victoriana and Telesfora Reyes) had lost their equitable remedy in law on the ground of laches, yet the Deed of Quitclaim is deemed valid and binding.

Equitable Rights Subsist Despite Laches

On the issue of the rights of the heirs of Victoriana and Telesfora Reyes being barred by the indefeasibility of petitioners Torrens Title over subject lot, we qualify. While it is true that the indefeasibility of petitioners title on the ground of laches bars the rights or interests of the heirs of Victoriana and Telesfora Reyes over the disputed lot, still, the indefeasible rights of a holder of a Torrens Title may be waived in favor of another whose equitable rights may have been barred by laches.

In *Soliva v. The Intestate Estate of Villalba*, laches is defined as:

the failure or neglect, for an unreasonable and unexplained length of time, to do that which by the exercise of due diligence could or should have been done earlier. It is the negligence or omission to assert a right within a reasonable period, warranting the presumption that the party entitled to assert it has either abandoned or declined to assert it.

Under this time-honored doctrine, relief has been denied to litigants who, by sleeping on their rights for an unreasonable length of time either by negligence, folly or inattention have allowed their claims to become stale. *Vigilantibus, sed non dormientibus, jura subveniunt*. The laws aid the vigilant, not those who slumber on their rights.[24] (Emphasis supplied and citations omitted.)

Verily, laches serves to deprive a party guilty of it to any judicial remedies.

However, the equitable rights barred by laches still subsist and are not otherwise extinguished. Thus, parties guilty of laches retains equitable rights albeit in an empty manner as they cannot assert their rights judicially. However, such equitable rights may be revived or activated by the waiver of those whose right has ripened due to laches, and can be exercised to the extent of the right waived.

Equitable Rights Revived through Waiver

In the case at bar, petitioners title over Lot No. 3880 had become indefeasible due to the laches of the heirs of Victoriana and Telesfora Reyes. However, like any rights over immovable property, titleholders may convey, dispose, or encumber their right or interest. Thus, through the waiver and quitclaim, the rights of the heirs of Victoriana and Telesfora Reyes were acknowledged, revived, and activated to the extent of the rights waived by titleholders Victorino, Luis, and Jovito Reyes. Clearly, the quitclaim executed by titleholders Victorino, Luis, and Jovito Reyes waived and conveyed their rights over the said lot in favor of the heirs of Victoriana and Telesfora

Reyes, whose equitable rights were barred by laches.

In this light, we note that both trial and appellate courts in Civil Case No. 6238 did not categorically pronounce that the heirs of Victoriana and Telesfora Reyes had no rights over the disputed lot. Their pronouncements were to the effect that whatever equitable rights the heirs of Victoriana and Telesfora Reyes may have had over the subject lot had been barred by laches. Thus, the voluntary waiver of Victorino, Luis, and Jovito Reyes revived and activated the equitable rights of the heirs of Victoriana and Telesfora Reyes over Lot No. 3880. But such revived and activated rights over Lot No. 3880 correspond only to the extent of the rights of Victorino, Luis, and Jovito Reyes waived in their favor.

The Quitclaim (Waiver) is Valid

The waiver is clear. The recent case of *Valderama v. Macalde* reiterated the three (3) essential elements of a valid waiver, thus: (a) existence of a right; (b) the knowledge of the existence thereof; and, (c) an intention to relinquish such right. [25] These elements are all present in the case at bar. The three (3) executors, who were co-owners and titleholders of the said lot since 1954, were aware of their rights, and executed the Deed of Quitclaim in clear and unambiguous language to waive and relinquish their rights over Lot No. 3880 in favor of the heirs of Victoriana and Telesfora Reyes. Thus, the existence of a valid waiver has been positively demonstrated. Moreover, in *People v. Bodoso*, cited in *Valderama*, it was held that the standard of a valid waiver requires that it not only must be voluntary, but must be knowing, intelligent, and done with sufficient awareness of the relevant circumstances and likely consequences.[26] In the instant case, petitioners utterly failed to adduce any evidence showing that the assailed quitclaim was done absent such standard. Indeed, we note with approval the CA's apt application of the presumption that a person takes ordinary care of his concerns and that private transactions have been fair and regular.[27]

Waiver Complies with the Requisites of a Valid Contract and the Formal Requisites to Convey Real Property

Petitioners argue that even if the conveyance or waiver was duly executed, such is ineffective on the grounds of non-compliance with the requirements of Article 1318 of the new Civil Code on the requisites of a contract, and that it cannot be considered a donation for non-compliance with the formalities required by the law on donation, for example, acceptance.

The argument is bereft of merit.

The Deed of Quitclaim complies with the essential requisites of a contract provided in Article 1318 of the Civil Code, viz: (a) consent of the parties; (b) object certain that is the subject matter of the waiver and quitclaim; and, (c) the cause of the waiver and quitclaim that is established. First, there is no doubt as to the consent of the executing parties and the heirs of Victoriana and Telesfora Reyes. Second, the object is the executors' right over the subject land. And third, the cause is certain, that is, the recognition by the executors of the rights of the heirs of Victoriana and Telesfora Reyes over the disputed lot.

It likewise complies with Article 1358 (1) of the Civil Code which requires that acts and contracts which have for their object the creation, transmission, modification or extinguishments of real rights over immovable property must appear in a public document. This is complied with, as the Deed of Quitclaim is a public document having been acknowledged before a notary public.[28] Moreover, the Deed of Quitclaim has been duly annotated in the original certificate of title covering the subject lot.

Deed of Quitclaim not a donation

Petitioners contended that the Deed of Quitclaim is really a donation and thus necessitates acceptance by

respondents Agalas and Manabans. A purview of the factual antecedents of the execution of the Deed of Quitclaim shows otherwise. Victorino, Luis, and Jovito Reyes signed the Deed of Quitclaim to relinquish their rights in recognition of respondents' right over the said land and thus conveyed their rights and interest in the quitclaim to respondents Agalas and Manabans (the heirs of Victoriana and Telesfora Reyes).

It should be remembered that respondents Agalas and Manabans are the heirs of Victoriana and Telesfora Reyes. Originally the rights and interests of respondents over Lot No. 3880 were formally filed in 1924 in the cadastral proceedings in the Cadastral Court. Leonardo Reyes instructed his representative to file an answer asserting the ownership of said lot by the eight (8) children of Isidro Reyes which includes Victoriana and Telesfora. However on July 10, 1949, another claim was filed by Dominador Agir only in behalf of the children of Higino and Policarpio Reyes, and excluded Victoriana and Telesfora Reyes. Thus, when OCT No. OV-227 was issued, the respondents Agalas and Manabans, as heirs of Victoriana and Telesfora, were excluded.

In this factual setting, respondents could have filed an action for reconveyance to recover their shares in Lot No. 3880. However, instead of instituting such a suit, respondents were able to convince Victorino, Luis, and Jovito, all surnamed Reyes, to execute a Deed of Quitclaim restoring to them their shares. Therefore, it is clear that the quitclaim is not a donation for the three (3) Reyeses Victorino, Luis, and Jovito who merely acknowledged the ownership of and the better right over the said lot by the heirs of Victoriana and Telesfora Reyes. Having acquired title over the property in 1954 to the exclusion of respondents Agalas and Manabans, through the Deed of Quitclaim executed in 1972, the three (3) Reyeses merely acknowledged the legal rights of respondents over their shares in the said lot. In fine, the Deed of Quitclaim, not being a donation, no formal acceptance is needed from the Agalas and Manabans.

After resolving the validity of the Deed of Quitclaim and elucidating on why the deed is not tantamount to a donation, we will now resolve what the heirs of Victoriana and Telesfora Reyes are entitled to own and why they can legally possess the disputed lot:

Heirs of Victoriana and Telesfora Reyes entitled to 1/3 of disputed lot

Through the Deed of Quitclaim, the heirs of Victoriana and Telesfora Reyes respondents Agalas and Manabans and their co-heirs are entitled to the aggregate shares of Victorino, Luis, and Jovito Reyes over Lot No. 3880.

OCT No. OV-227 shows that the said lot has a total area of around 25,277 square meters, more or less. The shares of the registered co-owners in the OCT are given as follows:

[I]t is hereby decreed that [1] Victorino Reyes, single; [2] Cipriano Reyes, single; [3] Luis Reyes, 19 years of age, single; [4] Ricardo Reyes, 17 years of age, single; [5] Jesus Reyes, 11 years of age; [6] Daylinda Reyes, 8 years of age; [7] Jovito Reyes, single; [8] Guillermo Reyes, 19 years of age, single; and [9] Beatriz Reyes, 17 years of age, single; in the proportion of undivided 1/2 in equal shares to the first six (6) named and the remaining 1/2 in undivided equal shares, to the last three (3) named x x x

From the foregoing division of pro-indiviso shares, Victorino's share is 1/6 of 1/2 undivided share or 1/12 of the total area. Luis has the same share as Victorino's; while Jovito's share is 1/3 of 1/2 undivided share or 2/12 [1/6] of the total area. Thus, Victorino and Luis have equal shares of 2,106.417 square meters while Jovito has a share of 4,212.833 square meters. Thus, the aggregate area of the shares of Victorino, Luis, and Jovito is 8,425.667 square meters or 1/3 of the total land area of subject lot, which will be passed on to the heirs of Victoriana and Telesfora Reyes respondents Agalas and Manabans, and their co-heirs, the Balsamos, Aguilar, and Mayormitas.

Second and Fourth Issues:

Respondent Calumpang barred by Civil Case No. 6238

We will now tackle both alleged assignments of errors as regards respondents Calumpangs because both issues are closely related. In the second assignment of error, petitioners, as registered owners, contend that they are in constructive possession of the disputed land and have the right to demand that respondent Calumpangs, who are occupying the land, to vacate it. And, in the last assignment of error, petitioners contend that the appellate court erred in dismissing the complaint, including the claim against respondents Jose and Geoffrey Calumpang, who did not contest the case in the trial court, aside from their joint answer and whose appeal before the appellate court was dismissed with finality.

We agree with petitioners.

As mentioned above, petitioners title over Lot No. 3880, Tanjay Cadastre, Original Certificate of Title No. OV-227 issued in their names sometime in 1954, had become indefeasible pursuant to the trial courts Decision duly affirmed by the appellate court in Civil Case No. 6238. Respondent Calumpangs apparently did not adduce evidence to assert their rights over subject lot both in the prior Civil Case No. 6238 and in the instant one. Be that as it may, the claim of respondent Calumpangs over Lot No. 3880 had been conclusively denied in Civil Case No. 6238. Thus, whatever rights and interests respondents Jose and Geoffrey Calumpang have had over Lot No. 3880 are barred by the Decision in Civil Case No. 6238. Moreover, the December 19, 1997 Resolution of the CA had become final and executory. Consequently, having no rights over Lot No. 3880, there is no reason for respondents Jose and Geoffrey Calumpang to continue occupying a portion of Lot No. 3880.

WHEREFORE, the petition is partly GRANTED. The January 26, 1999 Decision and the March 25, 1999 Resolution of the Court of Appeals in CA-G.R. CV No. 54795 are hereby SET ASIDE. Respondents Jose and Geoffrey Calumpang are ORDERED to VACATE Lot No. 3880, REMOVE their houses from the said lot, if any, and PAY petitioners, jointly and severally, PHP 10,000.00 as attorneys fees. The heirs of Victoriana and Telesfora Reyes among whom are respondents Agalas and Manabansare entitled to 8,425.667 square meters of Lot No. 3880. The parties are ORDERED to have Lot No. 3880 surveyed, and a subdivision plan prepared showing the respective shares of the parties as basis for the issuance of separate titles. The Register of Deeds of Tanjay, Negros Oriental is hereby ORDERED to issue separate Transfer Certificates of Title based on the said survey plan; one title in the name of the heirs of Victoriana and Telesfora Reyes over 8,425.667 square meters, who will retain possession of such area only, and another title over the remaining area of 16,851.333 square meters of Lot No. 3880 which shall be issued in the names of Cipriano, Ricardo, Jesus, Daylinda, Guillermo, and Beatriz, all surnamed Reyes, excluding Victorino, Luis, and Jovito Reyes, whose shares were conveyed to the heirs of Victoriana and Telesfora Reyes.

No costs.

SO ORDERED.

Quisumbing (Chairperson), Carpio, Carpio Morales, and Tinga, JJ., concur.

[1] Dated May 18, 1999, rollo, pp. 3-15.

[2] Penned by Justice Salome A. Montoya (now retired), with Justices Ruben T. Reyes (former Fifth Division chair, now Presiding Justice) and Eloy R. Bello, Jr. (member, now retired) concurring, rollo, pp. 20-29.

[3] Rollo, p. 19.

[4] CA rollo, pp. 119-120.

[5] Exhibit 2 [of respondents], records, Folder No. 4, pp. 1-2.

[6] *Id.*

[7] Penned by Associate Justice Ricardo L. Pronove, Jr., with Associate Justices Alfredo L. Benipayo and Serafin V.C. Guingona concurring, Exhibit G or 6 [for respondents], records, Folder No. 4, pp. 1-8.

[8] One of the petitioners testified on June 8, 1994 and September 12, 1994, TSN, records, Folder No. 2 and 3, pp. 5-19 and 6-15, respectively.

[9] One of the respondents testified on May 4, 1995, TSN, records, Folder No. 2 and 3, pp. 3-20.

[10] Decision penned by Hon. Judge Florencio S. Barron, RTC, 7th Judicial Region, Branch 35, Dumaguete City, records, pp. 224-227.

[11] CA Resolution, through Justices Roberto O. Barrios, Artemon D. Luna, and Godardo A. Jacinto, rollo, p. 50.

[12] CA rollo, p. 37.

[13] Original in upper case, Petitioners Memorandum, rollo, p. 79.

[14] *Bukidnon Hospital v. Metrobank*, G.R. No. 161882, July 8, 2005, 463 SCRA 222, 233, citing *Republic v. Sandiganbayan*, G.R. No. 102508, January 30, 2002, 375 SCRA 145, 154.

[15] Section 15, Rule 44 of the Rules of Civil Procedure, as amended; see also *Far East Marble (Phils.), Inc. v. Court of Appeals*, G.R. No. 94093, August 10, 1993, 225 SCRA 249, 255.

[16] Plaintiffs Offer of Exhibits, dated February 28, 1995, records, Folder No. 4.

[17] *Vide: Acabal, et al. v. Acabal, et al.*, G.R. No. 148376, March 31, 2005, 454 SCRA 555, 569; *Citibank, N.A. MasterCard v. Teodoro*, G.R. No. 150905, September 23, 2003, 411 SCRA 577, 583; *Manongsong v. Estimo*, G.R. No. 136773, June 25, 2003, 404 SCRA 683, 693; *Noceda v. CA*, G.R. No. 119730, September 2, 1999, 313 SCRA 504, 520, *Pimentel v. CA*, G.R. No. 117422, May 12, 1999, 307 SCRA 38, 46; *Luxuria Homes, Inc. v. CA*, G.R. No. 125986, January 28, 1999, 302 SCRA 315, 325; *Pacific Banking Corporation Employees Organization v. CA*, G.R. No. 109373, March 27, 1998, 288 SCRA 197, 206; *Jison v. Court of Appeals*, G.R. No. 124853, February 24, 1998, 350 Phil. 138, 286 SCRA 495, 532; and *P.T. Cerna Corporation v. CA*, G.R. No. 91662, April 6, 1993, 221 SCRA 19, 25.

[18] See Sec. 1, Rule 133 of the Revised Rules of Evidence. Also *vide: Borlongan v. Madrideo*, G.R. No. 120267, January 25, 2000, 323 SCRA 248, 255, 380 Phil. 215, 223, citing *New Testament Church of God v. Court of Appeals*, G.R. No. 102297, July 14, 1995, 246 SCRA 266, 269; and *Republic v. Court of Appeals*, G.R. No. 84966, November 21, 1991, 204 SCRA 160, 168.

[19] *Jison v. CA*, *supra* at 532.

[20] *Luxuria Homes, Inc. v. Court of Appeals*, *supra* at 325.

[21] *Bravo-Guerrero, et al. v. Bravo, et al.*, G.R. No. 152658, July 29, 2005, 465 SCRA 244, 264; *Maestrado v. Court of Appeals*, G.R. Nos. 133345 and 133324, March 9, 2000, 327 SCRA 678, 694, 384 Phil. 418; and *Loyola v. Court of Appeals*, G.R. No. 115734, February 23, 2000, 326 SCRA 285, 294.

[22] See April 28, 1987 Decision, rendered by Judge Luis R. Ruiz, Jr., Exhibit 5 of Memorandum of Exhibits [of respondents], records, Folder No. 4, pp 1-11.

[23] See note 7.

[24] G.R. No. 154017, December 8, 2003, 417 SCRA 277, 286.

[25] G.R. No. 165005, September 16, 2005, 470 SCRA 168, 182.

[26] G.R. Nos. 149382-149383, March 5, 2003, 398 SCRA 642, 648.

[27] CA Decision, *supra*, citing Heirs of Enrique Zambales, et al. v. Court of Appeals, G.R. No. L-54070, February 28, 1983, 120 SCRA 897, 903, rollo, p. 27.

[28] See Section 19 (b), Rule 132 of the Revised Rules on Evidence, Rules of Court.

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