

**LILIAN CAPITLE, SOFRONIO CORREJADO, ARTEMIO CORREJADO,
VICENTE CORREJADO, CECILIA CORREJADO, GLORIA VDA. DE
BEDUNA, ROGELIA CORREJADO, MANUEL CORREJADO, RODOLFO
CORREJADO, TERES...**

G.R. No. 146890. June 08, 2004

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Fabian Correjado (Fabian) inherited from his father Santos Correjado two parcels of land subject of the case at bar, Lot No. 1782-B of the Pontevedra Cadastre and Lot No. 952 of the Hinigaran Cadastre containing 26,728 sq. m. and 55,591 sq. m., respectively.

Fabian died intestate in 1919. He was survived by four children, namely: Julian, Zacarias, Francisco and Manuel, all surnamed Correjado.

After Fabian's death in 1919, his son Julian occupied and cultivated the two subject parcels of land (the property) until his death in 1950. He was survived by three children, namely, herein respondents Julieta vda. de Gaban (Julieta), Julia Correjado (Julia) and Hermegildo Correjado.

Julian's brother Francisco died in 1960. He was survived by herein petitioners Manuel Correjado, Teresita C. Amarante, Juanita Correjado, Rodolfo Correjado, and Jileta Peregrino.

Julian's brother Zacarias died in 1984. He was survived by the other petitioners herein, Aurora P. vda. de Correjado, Lilia Capitle, Artemio Correjado, Cecilia Correjado, Rogelia Correjado (Rogelia), Sofronio Correjado, Vicente Correjado and Gloria vda. de Beduna.

On November 26, 1986, petitioners filed a complaint[1] for partition of the property and damages before the Regional Trial Court (RTC) of La Carlota City against respondents, alleging that Fabian contracted two marriages, the first with Brigida Salenda who was the mother of Julian, and the subsequent one with Maria Catahay (Maria) who was the mother of Zacarias, Manuel and Francisco; that the property remained undivided even after the death of Julian in 1950, his children-herein respondents having arrogated unto themselves the use and enjoyment of the property, to the exclusion of petitioners; and that respondents refused to deliver petitioners' share in the property despite demands therefor and for partition.

To the Complaint respondents countered in their Answer[2] that in the proceedings in the intestate estate of their great grandfather Santos Correjado, petitioners were not adjudicated any share in the property, for Maria, the mother of petitioners' respective fathers Francisco and Zacarias, was just a mistress of Fabian, hence, Francisco and Zacarias (as well as Manuel) were illegitimate who were not entitled to inherit under the old Civil Code (Spanish Civil Code of 1889).

By Decision of December 29, 1992,[3] Branch 63 of the La Carlota City RTC dismissed the complaint upon the

grounds of prescription and laches.

On appeal to the Court of Appeals wherein petitioners raised as sole error of the trial court its dismissal of the complaint “without basis in fact and in law,” the appellate court, by Decision of August 29, 2000,[4] dismissed the appeal and affirmed the decision of the trial court.

In affirming the decision of the trial court, appellant passed upon the issue of legitimacy of the brothers Francisco and Zacarias (as well as of their brother Manuel) in order to determine whether they co-owned the property with Julian, illegitimate children not being entitled to inherit under the Spanish Civil Code of 1889[5] which was in force when the brothers’ father Fabian died in 1919.

The appellate court found that respondents failed to discharge the onus of proving that Francisco and Zacarias were illegitimate. But it too found that petitioners also failed to prove that Zacarias and Francisco were legitimate.

Upon the disputable presumption, however, that a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage,[6] the appellate court presumed that Fabian and Maria were lawfully married, hence, their children Zacarias and Francisco (as well as Manuel)-predecessors-in-interest of petitioners were legitimate children and, therefore, they co-owned with Julian the property.

Its finding of co-ownership of the property by the predecessors-in-interest of the parties notwithstanding, the appellate court held that, as did the trial court, prescription and laches had set in, ratiocinating as follows:

It is a hornbook doctrine that the possession of a co-owner is like that of a trustee and shall not be regarded as adverse to the other co-owners but in fact as beneficial to all of them so much so that each co-owner may demand at anytime the partition of the common property and that this implies that an action to demand partition is imprescriptible or cannot be barred by laches (*Salvador vs. Court of Appeals*, 243 SCRA 23; *De Castro vs. Echarri*, 20 Phil. 23).

While the right of action to demand partition does not prescribe, acquisitive prescription may set in where one of the co-owners openly and adversely occupies the property without recognizing the co-ownership (*Cordova vs. Cordova*, 102 Phil. 1182; *Heirs of Segunda Manungding vs. Court of Appeals*, 276 SCRA 601), The statute of limitations operates, as in other cases, from the moment such adverse title is asserted by the possessor of the property (*Ramos vs. Ramos*, 45 Phil. 362; *Bargayo vs. Camumot*, 40 Phil. 857).

The elements constituting adverse possession by a co-owner against another co-owner or cestui que trust are: (1) that he has performed unequivocal acts of repudiation amounting to an ouster of the cestui que trust or other co-owners; (ii) that such positive acts of repudiation have been made known to the cestui que trust or the other co-owners; and (iii) that the evidence thereon must be clear and convincing (*Salvador vs. Court of Appeals*, supra).

Granting that appellants, as well as their predecessors-in-interest, were initially co-owners of the disputed property, nevertheless, acquisitive prescription in favor of appellees had already set in. Appellees had performed unequivocal acts of repudiation. This is shown by the un rebutted testimony of [herein respondent] Julia who declared that her brother Atilano (deceased) introduced improvements on the disputed property and the fact that appellees and their father Julian paid the realty taxes thereon as exclusive owners thereof. Moreover, applicants admitted in paragraph 12 of the Complaint that after Julian’s death (in 1950), appellees arrogated unto themselves the use and enjoyment of the disputed property, to the exclusion of appellants. This admission is bolstered by [herein petitioner] Rogelia’s testimony, as follows:

Q

By the way you said that you are going to recover this 1/6 share from Julieta vda. de Gaban. Why, is she in possession of this land?

A Yes, sir.

Q She is presently in possession of the said lot?

A Yes, sir.

Q Can you tell us since when did she possess that land?

A 1980.

Q Previous to that, can you tell us if she was in possession of the said land?

A Yes, sir. She has been in possession of the said lot before 1980.

Q Was there a period of years that you have been in possession of the said land?

[A No, sir. We have never been in possession of the said land.]

x x x

Q Were you able to gather benefits from that land?

A We never benefited.

Q Since when have you not benefited from that land?

A Since 1919.

x x x

Q By the way, can you tell us since when you have been deprived of that land, from what year?

A

From 1919 to 1990.” (TSN, January 9, 1990, pp. 51-55). (Underscoring supplied)[7]

Petitioners filed a motion for reconsideration[8] of the appellate court’s decision upon the ground that “THIS CASE HAS BEEN OVERTAKEN BY EVENTS, PARTICULARLY ART. 19 OF THE [NEW] CIVIL CODE” which reads:

ART. 19. Every person, must be in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith,

citing some cases in support thereof.

Finding the invocation of Art. 19 misplaced, the appellate court, by Resolution of February 7, 2001,[9] denied the Motion for Reconsideration, hence, the present petition[10] proffering the following

ISSUES FOR RESOLUTION

I

WHETHER OR NOT RELIANCE ON ART. 19 OF THE CIVIL CODE IS MISPLACED.

II

WHETHER IN RESOLVING CASES, THE ISSUE OF MORALITY OF THE ACT DOES NOT COME INTO PLAY.

III

WHETHER OR NOT LACHES IS APPLICABLE IN THE CASE AT BAR.[11]

Petitioners contend that “[t]here is such a thing as morality that comes into play,” as after all, the appellate court found the parties to be first cousins and, therefore, following Art. 19 of the Civil Code, petitioners should get their share in the property.

Petitioners further contend that “laches is not strictly applied when it comes to close relations,” citing *Gallardo v. IAC*, 155 SCRA 248.

The petition fails.

Article 19 of the Civil Code in Chapter 2 on Human Relations is a statement of principle that supplements but does not supplant a specific provision of law.

With respect to rights to the inheritance of a person who died before the effectivity on August 30, 1950 of the Civil Code like Fabian who died in 1919:

Art. 2263, New Civil Code

ART. 2263. Rights to the inheritance of a person who died, with or without a will, before the effectivity of this Code, shall be governed by the Civil Code of 1889, by other previous laws, and by the Rules of Court. x x x

ART. 807, Spanish Civil Code of 1889

ART 807. The following are forced heirs:

- Legitimate children and descendants, with respect to their legitimate parents and ascendants;
- In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;

The widower or widow, natural children legally acknowledged, and the father or the mother of the latter, in the manner and to the extent established by Articles 834, 835, 836, 837, 840, 841, 842, and 846.

ART. 939, Spanish Civil Code of 1889,

ART. 939. In the absence of legitimate descendants and ascendants, the natural children legally acknowledged and those legitimated by royal concession shall succeed to the entire estate of the deceased.

With respect to prescription:

Art. 1134, New Civil Code

ART. 1134. Ownership and other real rights over immovable property are acquired by ordinary prescription through possession of ten years.

Art. 1137, New Civil Code

ART. 1137. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith.

Assuming *arguendo* that petitioners' respective fathers Francisco and Zacarias were legitimate and, therefore, were co-owners of the property: From the moment co-owner Julian occupied in 1919 and claimed to be the absolute and exclusive owner of the property and denied his brothers any share therein up to the time of his death in 1950, the question involved is no longer one of partition but of ownership in which case imprescriptibility of the action for partition can no longer be invoked. The adverse possession by Julian and his successors-in-interest-*herein* respondents as exclusive owner of the property having entailed a period of about 67 years at the time of the filing of the case at bar in 1986, ownership by prescription had vested in them.[12]

As for estoppel by laches which is a creation of equity,[13] since laches cannot interfere with the running of the period of prescription, absent any conduct of the parties operating as estoppel,[14] in light of the prescription of petitioners' action, discussion thereof is dispensed with. Suffice it to state that while laches may not be strictly applied between near relatives, under the facts and circumstances of the case, especially the uncontroverted claim of respondents that their father Julian, and the documented claim of respondent Julieta, had paid realty taxes on the property as exclusive owner, as well as the admission of petitioner Rogelia that, as quoted above, she and her co-petitioners "never benefitted" or were "deprived" of any benefits from the property since 1919 up to the time of the filing of the case in 1986 before the RTC or for a period of 67 years, despite demands therefor, even an extremely liberal application of laches would bar the filing of the case.

WHEREFORE, the petition is hereby DISMISSED and the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

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

[1] Original Records at 4-8.

[2] Id. at 49-50.

[3] Id. at 184-191.

[4] CA Rollo at 74-84.

[5] Arts. 807 and 939.

[6] Sec. 3(aa), Rule 131, Revised Rules of Court.

[7] Rollo at 62-64a.

[8] Id. at 66-69.

[9] CA Rollo at 98.

[10] Rollo at 10-21.

[11] Id. at 17.

[12] Dela Calzada-Cierras v. CA, 212 SCRA 390, 396 (1992); Delima v. CA, 201 SCRA 641 (1991); Arradaza v. CA, 170 SCRA 12,20 (1989).

[13] Central Azucarera de Danao v. CA, 137 SCRA 295 (1985).

[14] Inton v. Quintana, 81 Phil. 97, 104 (1948).

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