DEPARTMENT OF EDUCATION, DIVISION OF ALBAY REPRESENTED BY ITS SCHOOL’S DIVISION SUPERINTENDENT, PETITIONER, VS. CELSO OÑATE, RESPONDENT.

G.R. No. 161758. June 08, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

A little neglect may lead to great prejudice.

The Case

This is a Petition for Review on Certiorari[1] under Rule 45 seeking to reverse and set aside the January 14, 2004 Decision[2] of the Court of Appeals (CA) in CA-G.R. CV No. 60659, which affirmed the November 3, 1997 Decision[3] of the Legaspi City Regional Trial Court (RTC), Branch I, declaring as null and void the December 21, 1998 Deed of Donation[4] executed by the Municipality of Daraga, Albay in favor of petitioner, and directing the latter to return to respondent Celso Oñate the possession of the portion of land occupied by the school site of the Daraga North Central Elementary School.

The Facts

Spouses Claro Oñate and Gregoria Los Baños owned Lot No. 6849 (disputed lot) with an area of around 27,907 square meters registered under the Torrens System of land registration under Original Certificate of Title (OCT) No. 2563. Claro Oñate had three children, namely: Antonio, Rafael, and Francisco, all surnamed Oñate. Respondent Celso Oñate is the grandson of Claro Oñate, being the son of Francisco Oñate.

In 1940, Bagumbayan Elementary School of Daraga was constructed on a portion of the disputed lot. The school was eventually renamed Daraga North Central Elementary School. The Municipality of Daraga leveled the area while petitioner Department of Education Culture and Sports (DECS; now Department of Education [DepEd]) developed and built various school buildings and facilities on the disputed lot.

Sometime in 1991, respondent filed a reconstitution proceeding of OCT No. 2563 which was granted by the Legaspi City RTC, Branch V after due notice, publication, and hearing. Consequently, OCT No. RO-18971[5] was issued in the name of spouses Claro Oñate and Gregoria Los Baños.

On August 26, 1991, a Deed of Extrajudicial Settlement of Estate and Cession was executed by respondent and his three (3) sisters, namely: Melba O. Napil, Cielo O. Lardizabal, and Maria Visia O. Maldo, who waived their successional rights in favor of respondent Celso Oñate. Asserting that the disputed lot was inherited by his father, Francisco Oñate, from the latter's father, Claro Oñate, by virtue of a prior partition among the three (3) sons of Claro Oñate and Gregoria Los Baños, respondent in turn claimed ownership of said lot through the deed of extrajudicial settlement.

Meanwhile, the issue of whether respondent's father, Francisco Oñate, truly acquired the disputed lot through a

prior partition among Claro Oñate's three (3) children had been passed upon in another case, Civil Case No. 8724 for Partition, Reconveyance and Damages filed by the heirs of Rafael Oñate before the Legaspi City RTC, Branch IX.[6] In said case, respondent Celso Oñate, the defendant, prevailed and the case was dismissed by the trial court.

Thereafter, respondent caused Lot No. 6849 to be subdivided into five (5) lots, all under his name, except Lot No. 6849-B which is under the name of Mariano M. Lim. On October 26, 1992, the subdivided lots were issued Transfer Certificate of Titles (TCTs): (1) Lot No. 6849-A (13,072 square meters) under TCT No. T-83946;[7] (2) Lot No. 6849-B (3,100 square meters) under TCT No. T-84049;[8] (3) Lot No. 6849-C (10,000 square meters) under TCT No. T-83948;[9] (4) Lot No. 6849-D (1,127 square meters) under TCT No. T-83949;[10] and (5) Lot No. 6849-E (608 square meters) under TCT No. T-83950.[11]

On December 15, 1992, through his counsel, respondent sent a letter to petitioner apprising it about the facts and circumstances affecting the elementary school and its occupancy of Lot No. 6849-A with an area of 13,072 square meters. Respondent proposed to petitioner DECS that it purchase Lot No. 6849-A at the Fair Market Value (FMV) of PhP 400 per square meter and also requested for reasonable rentals from 1960.[12] The records show that then DECS Director IV Jovencio Revil subsequently referred the matter to the DECS Division Superintendent Rizalina D. Saquido for investigation.[13]

On February 24, 1993, through his counsel, respondent likewise wrote to Engr. Orlando Roces, District Engineer, Albay Engineering District about the on-going construction projects in the school.[14] Engr. Roces then informed respondent's counsel that petitioner DECS is the owner of the school site having acquired the disputed lot by virtue of a Deed of Donation executed by the Municipality of Daraga, Albay in favor of petitioner.[15]

Consequently, on March 18, 1993, respondent instituted a Complaint[16] for Annulment of Donation and/or Quieting of Title with Recovery of Possession of Lot No. 6849 located at Barrio Bagumbayan, Daraga, Albay before the Legaspi City RTC, docketed as Civil Case No. 8715, against petitioner DECS, Division of Albay, represented by the Division Superintendent of Schools, Mrs. Rizalina D. Saquido; and the Municipality of Daraga, Albay, represented by the Municipal Mayor, Honorable Cicero Triunfante.

In its April 28, 1993 Answer,[17] the Municipality of Daraga, Albay, through Mayor Cicero Triunfante, denied respondent's ownership of the disputed lot as it alleged that sometime in 1940, the Municipality bought said lot from Claro Oñate, respondent's grandfather, and since then it had continually occupied said lot openly and publicly in the concept of an owner until 1988 when the Municipality donated the school site to petitioner DECS; thus asserting that it could also claim ownership also through adverse possession. Moreover, it claimed that the disputed lot had been declared in the name of defendant municipality in the Municipal Assessor's Office under Tax Declaration No. 31954 from 1940 until 1988 for purposes of exemption from real estate taxes. Further, defendant Municipality contended that respondent was guilty of laches and was estopped from assailing ownership over the disputed lot.

Similarly, petitioner's April 29, 1993 Answer[18] reiterated in essence the defenses raised by the Municipality of Daraga, Albay and further contended that respondent had no cause of action because it acquired ownership over the disputed lot by virtue of a Deed of Donation executed on December 21, 1988 in its favor; and that respondent's claim was vague as it was derived from a void Deed of Extrajudicial Settlement of Estate and Cession disposing of the disputed lot which was already sold to the Municipality of Daraga, Albay in 1940. Petitioner likewise assailed the issuance of a reconstituted OCT over Lot 6849 when the lower court granted respondent's petition for reconstitution without notifying petitioner.

During the ensuing trial where both parties presented documentary and testimonial evidence, respondent testified

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that he came to know of the disputed lot in 1973 when he was 23 years old; that he took possession of the said lot in the same year; that he came to know that the elementary school occupied a portion of the said lot only in 1991; and that it was only in 1992 that he came to know of the Deed of Donation executed by the Municipality of Daraga, Albay.[19] Also, Felicito Armenta, a tenant cultivating a portion of disputed Lot 6849, testified that respondent indeed owned said lot and the share of the crops cultivated were paid to respondent.[20]

However, after respondent testified, defendants in said case filed a Joint Motion to Dismiss[21] on the ground that respondent's suit was against the State which was prohibited without the latter's consent. Respondent countered with his Opposition to Joint Motion to Dismiss.[22] Subsequently, the trial court denied the Joint Motion to Dismiss, ruling that the State had given implied consent by entering into a contract.[23]

Aside from the reconstituted OCT No. RO-18971, respondent presented the TCTs covering the five (5) portions of the partitioned Lot 6849, Tax Declaration No. 04-006-00681[24] issued for said lot, and the April 20, 1992 Certification[25] from the Office of the Treasurer of the Municipality of Daraga, Albay attesting to respondent's payment of realty taxes for Lot 6849 from 1980 to 1990.

After respondent rested his case, the defense presented and marked their documentary exhibits of Tax Declaration No. 30235 issued in the name of the late Claro Oñate, which was cancelled in 1938; Tax Declaration 31954,[26] which cancelled Tax Declaration No. 30235, in the name of Municipality of Daraga with the annotation of Ex-Officio Deputy Assessor Natalio Grageda attesting to the purchase by the Municipality under Municipal Voucher No. 69, August 1940 accounts and the issuance of TCT No. 4812 in favor of the Municipality; Tax Declaration No. 8926[27] in the name of the Municipality which cancelled Tax Declaration No. 31954; and the subsequent Tax Declaration Nos. 22184,[28] 332,[29] and 04-006-00068.[30]

The defense presented the testimony of Mr. Jose Adra,[31] the Principal of Daraga North Central Elementary School, who testified on the Municipality's donation of disputed Lot 6849 to petitioner and the improvements on said lot amounting to more than PhP 11 million; and Mrs. Toribia Milleza,[32] a retired government employee and resident of Bagumbayan, Daraga, Albay since 1955, who testified on the Municipality's continuous and adverse possession of the disputed lot since 1940.

As mentioned earlier, Civil Case No. 8724 for Partition, Reconveyance and Damages was instituted by the heirs of Rafael Oñate in Legaspi City RTC, Branch IX against Spouses Celso Oñate and Allem Vellez, involving the same disputed lot. Petitioner and co-defendant Municipality of Daraga, Albay were about to file a complaint for intervention in said case, but it was overtaken by the resolution of the case on August 14, 1995 with the trial court dismissing the complaint.

The Ruling of the RTC

On November 3, 1997, the trial court rendered a Decision in favor of respondent Celso Oñate. The dispositive portion declared, thus:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants:
>
> - Declaring the Deed of Donation executed by the Municipality of Daraga, Albay in favor of the defendant Department of Education Culture and Sports through the Albay Schools Division as null and void;
>
> - Declaring the plaintiff as the owner in fee simple of Lots Nos. 6849-A, 6849-C, 6849-D and 6849-E which are registered in his name;
>
> - Commanding the defendants to return the possession of the portion of the land occupied by the school site to the herein plaintiff Celso Oñate;

- Ordering the plaintiff for reason of equity, to pay the defendant Municipality of Daraga, Albay the amount of Fifty Thousand (50,000.00) Pesos pursuant to Article 479 of the New Civil Code of the Philippines;

- The defendant Department of Education Culture and Sports being a builder in good faith, the provisions of Article 448 of the New Civil Code of the Philippines shall be observed by the parties; and

- Ordering the defendants to pay the costs of the suit. No attorney's fees is hereby adjudged in favor of plaintiff's counsel.

SO ORDERED.[33]

The trial court ratiocinated that it was clear that subject Lot 6849 was originally registered under the Torrens System in the name of Spouses Claro Oñate and Gregoria Los Baños as evidenced by OCT No. RO-18971. The right of respondent Celso Oñate over the disputed lot had not been proven otherwise or overturned in Civil Case No. 8724, and this was bolstered by the Deed of Extrajudicial Settlement of Estate and Cession, where respondent's sister waived their successional rights in his favor. Thus, the trial court ruled in favor of respondent's title. Besides, it further ruled that defendants could not assail the registered title of respondent in a collateral proceeding.

While the Municipality of Daraga, Albay anchored its prior ownership over the disputed lot by virtue of a sale in 1940 and mentioned TCT No. 4812 supposedly issued in its name, it however failed to submit any deed of conveyance in its favor, as well as a copy of the alleged TCT No. 4812. Hence, the trial court held that its claim over disputed Lot 6849 was based solely on adverse prescription which could not prevail over respondent's registered title.

The trial court concluded that given these factual and evidentiary proofs, petitioner had no right to occupy Lot 6849-A, and the Deed of Donation executed by the Municipality of Daraga, Albay in favor of petitioner must be nullified. Finally, the trial court awarded PhP 50,000 to the Municipality of Daraga, Albay for the cost of landfill and ordered that Article 448[34] of the New Civil Code be followed by the parties as petitioner was a builder in good faith.

The Ruling of the Court of Appeals

Aggrieved, petitioner DECS and Municipality of Daraga, Albay filed their respective Notices of Appeal[35] assailing the trial court's Decision before the CA. However, on June 17, 1998, the appellate court declared the appeals of both petitioners abandoned and dismissed for their failure to pay the required docket fees within the reglementary period.[36] Petitioner then filed a Motion for Reconsideration[37] of the said June 17, 1998 Resolution and its appeal was subsequently reinstated.[38] The Municipality of Daraga, Albay, however, totally lost its appeal due to inaction, and the appellate court correspondingly issued a Partial Entry of Judgment on July 9, 1998.[39]

Moreover, the appellate court held that there was no jurisdictional defect in the reconstitution proceeding being one in rem, and in the issuance of OCT No. RO-18971 based on the destroyed or lost OCT No. 2563, even if no notice was sent to petitioner. Thus, the CA ruled that respondent's claim of ownership over Lot 6849-A occupied by the school is conclusive for being soundly predicated on TCT No. T-83946 which cancelled the reconstituted OCT No. RO-18971. Furthermore, it reiterated the trial court's holding that petitioner is precluded from attacking collaterally respondent's title over the disputed lot in this proceeding.

The CA emphasized that petitioner's failure to present TCT No. 4812—allegedly issued in the name of the Municipality of Daraga, Albay in 1940 in lieu of OCT No. 2563 and the Deed of Conveyance executed by the original owner, Claro Oñate, in favor of the Municipality—was fatal to the defense. It reasoned that "all the more

had their claim of ownership become doubtful when defendants-appellants [sic] failed to explain from their pleadings and the evidence submitted before Us their failure to present the two documents."[40] The appellate court concluded that given these facts, no title in the name of the Municipality ever existed and thus it could not have validly donated the subject property to petitioner.

Anent the issue of the applicability of Amigable v. Cuenca,[41] the CA affirmed the doctrine enunciated in said case that "to uphold the State's immunity from suit would subvert the ends of justice." In fine, the appellate court pointed out the inconvenience and impossibility of restoring possession of Lot 6849-A to respondent considering the substantial improvements built on said lot by the government which amounted to almost PhP 12 million; and that the only relief available was for the government to pay just compensation in favor of respondent computed on the basis of the value of the property at the time of the government's taking of the land.

Through its assailed Decision,[42] the CA dismissed petitioner's appeal for lack of merit and affirmed the trial court's decision in toto. It reasoned that laches does not apply, its application rests on the sound discretion of the court, and where the court believes that its application would result in manifest wrong or injustice, it is constrained not to be guided strictly by said doctrine. Besides, it opined that laches could not defeat the rights of a registered owner.

The Issues

Hence, we have the instant petition where petitioner raises the following assignment of errors:

> I
>
> THE COURT OF APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S FINDING THAT RESPONDENT'S CAUSE OF ACTION TO RECOVER POSSESSION OF THE SUBJECT PROPERTY IS NOT YET BARRED BY LACHES.
>
> II
>
> THE COURT OF APPEALS ERRED IN ACCORDING GREAT WEIGHT ON RESPONDENT'S RECONSTITUTED ORIGINAL CERTIFICATE OF TITLE (OCT) NO. 2563 COVERING SUBJECT PROPERTY.
>
> III
>
> THE COURT OF APPEALS ERRED IN RULING THAT PETITIONER MAY BE SUED IN VIOLATION OF THE STATE'S IMMUNITY FROM SUIT.
>
> IV
>
> THE COURT OF APPEALS ERRED IN RULING THAT PETITIONER MAY BE SUED INDEPENDENTLY OF THE REPUBLIC OF THE PHILIPPINES.[43]

Petitioner basically raises two issues–the application of laches and the non-suability of the State.

The threshold issue is whether petitioner DECS can be sued in Civil Case No. 8715 without its consent. A supplementary issue is whether petitioner DECS can be sued independently of the Republic of the Philippines.

We rule that petitioner DECS can be sued without its permission as a result of its being privy to the Deed of Donation executed by the Municipality of Daraga, Albay over the disputed property. When it voluntarily gave its consent to the donation, any dispute that may arise from it would necessarily bring petitioner DECS down to the level of an ordinary citizen of the State vulnerable to a suit by an interested or affected party. It has shed off its mantle of immunity and relinquished and forfeited its armor of non-suability of the State.[44]

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The auxiliary issue of non-joinder of the Republic of the Philippines is likewise resolved in the negative. While it is true that petitioner is an unincorporated government agency, and as such technically requires the Republic of the Philippines to be impleaded in any suit against the former, nonetheless, considering our resolution of the main issue below, this issue is deemed mooted. Besides, at this point, we deem it best to lift such procedural technicality in order to finally resolve the long litigation this case has undergone. Moreover, even if we give due course to said issue, we will arrive at the same ruling.

The Republic of the Philippines need not be impleaded as a party-defendant in Civil Case No. 8715 considering that it impliedly gave its approval to the involvement of petitioner DECS in the Deed of Donation. In a situation involving a contract between a government department and a third party, the Republic of the Philippines need not be impleaded as a party to a suit resulting from said contract as it is assumed that the authority granted to such department to enter into such contract carries with it the full responsibility and authority to sue and be sued in its name.

Main Issue: Equitable Remedy of Laches

Petitioner strongly asserts that the Municipality of Daraga, Albay had continuous, open, and adverse possession in the concept of an owner over the disputed lot since 1940 until December 21, 1988 or for about 48 years. Significantly, it maintains that Tax Declaration No. 31954 covering the disputed lot in the name of the Municipality of Daraga, Albay contains an annotation certifying that said lot was "under voucher No. 69, August, 1940 accounts. The corresponding Transfer Title No. 4812 has been issued by the Register of Deeds Office of Albay on August 3, 1940."[45]

When petitioner received the lot as donation from the Municipality on December 21, 1988, it possessed the subject lot also in the concept of an owner and continued to introduce improvements on the lot. Consequently, when respondent instituted the instant case in 1993, petitioner and its predecessor-in-interest Municipality of Daraga, Albay had possessed the subject lot for a combined period of about fifty two (52) years.

Petitioner strongly avers that Claro Oñate, the original owner of subject lot, sold it to the Municipality. At the very least it asserts that said Claro Oñate allowed the Municipality to enter, possess, and enjoy the lot without protest. In fact, Claro Oñate neither protested nor questioned the cancellation of his Tax Declaration No. 30235 covering the disputed lot and its substitution by Tax Declaration No. 31954 in the name of the Municipality on account of his sale of the lot to the latter. In the same vein, when Claro Oñate and his spouse died, their children Antonio, Rafael, and Francisco who succeeded them also did not take any steps to question the ownership and possession by the Municipality of the disputed lot until they died on June 8, 1990, June 12, 1991, and October 22, 1957, respectively.

Petitioner maintains that significantly, respondent and his siblings' succeeding their father Francisco as the alleged owners, from his death on October 22, 1957–also did not take any action to recover the questioned lot from 1957 until 1993 when the instant suit was commenced. Petitioner avers that if they were really the owners of said lot, they would not have waited 52 long years to institute the suit assuming they have a cause of action against the Municipality or petitioner. Thus, petitioner submits that the equitable principle of laches has indubitably set in to bar respondent's action to recover possession of, and title to, the disputed lot.

Laches and its elements

Indeed, it is settled that rights and actions can be lost by delay and by the effect of delay as the equitable defense of laches does not concern itself with the character of the defendant's title, but only with plaintiff's long inaction or inexcusable neglect to bar the latter's action as it would be inequitable and unjust to the defendant.

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.[46] Verily, laches serves to deprive a party guilty of it to any judicial remedies. Its elements are: (1) conduct on the part of the defendant, or of one under whom the defendant claims, giving rise to the situation which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct as having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right in which the defendant bases the suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held barred.[47]

In Felix Gochan and Sons Realty Corporation, we held that "[t]hough laches applies even to imprescriptible actions, its elements must be proved positively. Laches is evidentiary in nature which could not be established by mere allegations in the pleadings and can not be resolved in a motion to dismiss (emphases supplied)."[48] In the same vein, we explained in Santiago v. Court of Appeals that there is "no absolute rule as to what constitutes laches or staleness of demand; each case is to be determined according to its particular circumstances."[49]

Issue of laches not barred by adverse judgment
against Daraga, Albay

It is unfortunate that defendant Municipality of Daraga, Albay lost its appeal in CA-G.R. CV No. 60659 before the CA for its failure to pay the required docket fees within the reglementary period. As a result, a Partial Entry of Judgment was made on July 9, 1998 and consequently, the dispositions in the November 3, 1997 Decision, rendered by the Legaspi City RTC, Branch I in favor of respondent Celso Oñate, became final and executory as against defendant Municipality of Daraga, Albay.

As an off-shoot, with respect to the Municipality of Daraga, the Deed of Donation in favor of petitioner DECS was annulled—respondent Oñate was declared owner in fee simple of the disputed lots and entitled to possession but was required to pay PhP 50,000 to the Daraga Municipal Government and the costs of suit. By reason of the finality of the Decision against the Municipality of Daraga, Tax Declaration Nos. 04-006-00068, 332, 22184, 31954, and 8926 are all cancelled and annulled (if not yet cancelled).

What are the effects of the final judgment against Municipality of Daraga on its co-defendant, petitioner DECS?

Generally, it has no impact on the appeal of DECS unless the decision affects its defenses. In this petition, DECS no longer questions the declaration of nullity of the Deed of Donation over the disputed lot and hence can be considered as a final resolution of the issue. Likewise, it does not challenge the ownership of Oñate of the disputed lots, but merely relied on the defense of laches. The final directive for Municipality of Daraga to return possession of the land has no significance on DECS' appeal since precisely, it is DECS' position that it should retain possession of the land. From these considerations, the final RTC November 3, 1997 Decision against the Municipality of Daraga has no substantial and material effect upon the DECS' appeal.

The only remaining issue left is whether laches can inure to the benefit of petitioner DECS considering the fact that Lot No. 6849-A was devoted to public education when the elementary school was built in 1940 under the supervision and control of DECS up to 1993 when Civil Case No. 8715 was filed by respondent Oñate.

We rule in the affirmative.

Laches has set in

A brief scrutiny of the records does show tell-tale signs of laches. The first element is undisputed: the then Bagumbayan Elementary School of Daraga was constructed in 1940 on a portion of disputed Lot 6849,

specifically Lot No. 6849-A containing 13,072 square meters under TCT No. T-83946. Moreover, Mrs. Toribia Milleza,[50] a retired government employee and resident of Bagumbayan, Daraga since 1955 pertinently testified, thus:

> Q: How long have you been residing in this place, Bagumbayan, Daraga, Albay?
> A: Maybe I stayed there in 1955 until the present.[51]
>
> x x x x
>
> Q: Now, can you further recall the kind of building that was constructed in this property?
> A: Seva type, building.
>
> Q: At present how many buildings were constructed in this property?
> A: Plenty of school buildings.
>
> Q: Now, how many buildings were first constructed in [sic] this property?
> A: In 1955 only one, the Seva type, then there was constructed five (5) Marcos Type buildings during the Marcos time.[52]

The devotion of Lot No. 6849-A to education started in 1940 and continued up to December 21, 1988 when said lot was donated to the DECS. From then on, DECS built various buildings and introduced improvements on said lot. Lot No. 6849-A was continuously used for public education until March 18, 1993 when respondent Oñate filed Civil Case No. 8715 and thereafter up to the present.

Thus, for a total period of more than fifty-two (52) years, Lot No. 6849-A was exclusively and completely utilized by DECS for public education. This fact was not successfully challenged nor refuted by respondent.

The second element of laches was likewise proven. No evidence was presented to show that respondent or his predecessors-in-interest ever took any action, administrative or judicial, nor either party questioned or protested the Municipality's adverse occupation of a portion of Lot 6849. As petitioner had demonstrated laches by persuasive and credible evidence, it is incumbent upon respondent to show that his predecessors-in-interest indeed protected their rights of ownership over the lot. Thus, as early as 1940, when the first Seva type school building was constructed over a portion of the disputed lot, now Lot 6849-A, respondent must prove that his predecessors-in-interest indeed undertook activities to contest the occupation of the portion of the lot by the Municipality and subsequently by petitioner DECS. Unfortunately, respondent failed to substantiate such defense of ownership and possession of the lot and even skirted this issue.

Respondent testified that he came to know of Lot 6849 only in 1973 when he was 23 years old.[53] He asserted that he took possession of said lot in the same year when his two (2) uncles, the brothers of his late father, passed on to him the disputed lot as his father's share of the inheritance from the late Claro Oñate and Gregoria Los Baños (his grandparents). However, it is interesting to note that he testified that he only came to know in 1991 that the elementary school was built on a portion of Lot 6849, now Lot 6849-A. These assertions are irreconcilable. Common experience tells us that one who owns a property and takes possession of it cannot fail to discover and know that an existing elementary school was built and standing on the lot from the time that the owner starts possessing a property.

Nonetheless, even granting that respondent indeed only came to know of such encroachment or occupation in 1991, his rights cannot be better than that of his predecessors-in-interest, that is, Claro Oñate and his uncles, Antonio and Rafael, who died in 1990 and 1991, respectively. Since respondent's right over the lot originated from his predecessors-in-interest, then he cannot have better rights over Lot No. 6849-A than the latter. The spring cannot rise higher than its source. Besides, respondent has not proffered any explanation why his

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predecessors-in-interest did not protest and challenge the Municipality's occupancy over a portion of their lot. Verily, with the span of around 52 years afforded respondent and his predecessors-in-interest, their inaction and delay in protecting their rights were certainly excessive and unjustified.

In the third element, the records clearly bear out the fact that petitioner DECS did not know nor anticipate that their possession and occupancy of a portion of Lot 6849 would later be questioned. In fact, petitioner built additional school buildings and facilities on the school site amounting to more than PhP 11 million. Mr. Jose Adra, School Principal of the Daraga North Central Elementary School, testified on the donation of the disputed lot to petitioner and the cost of the improvements on it.[54] After more than forty-eight (48) years of unquestioned, peaceful, and uninterrupted possession by petitioner DECS, it had no knowledge nor reason to believe that respondent would assert any right over the lot after the lapse of such long occupation coupled with a tax declaration in the name of the Daraga Municipality.

Finally, the last element is likewise proven by the antecedent facts that clearly show grave prejudice to the government, in general, and to petitioner, in particular, if the instant action is not barred without even considering the cost of the construction of the school buildings and facilities and the deleterious effect on the school children and affected school teachers and personnel if Lot No. 6849-A would be returned to respondent.

Verily, the application of laches is addressed to the sound discretion of the court as its application is controlled by equitable considerations. In the instant case, with the foregoing considerations, we are constrained from giving approbation to the trial and appellate courts' ruling that the application of the principle of laches would subvert the ends of justice. Indeed, it is unjust for the State and the affected citizenry to suffer after respondent and his predecessors-in-interest had slept on their rights for 52 years.

Also, the inaction of respondent Oñate and his predecessors-in-interest for over 50 years has reduced their right to regain possession of Lot 6849-A to a stale demand.

Laches holds over the actual area possessed and occupied by petitioner

We, however, make the clear distinction that laches applies in favor of petitioner only as regards Lot 6849-A which is actually possessed and occupied by it. Laches does not apply to Lot Nos. 6849-B, 6849-C, 6849-D, and 6849-E. These portions were never occupied by the Municipality and petitioner. Agricultural tenant Felicito Armenta testified that his father, Antonio Armenta, started cultivating portions of Lot 6849 way back in the 1940s and that he took over the tenancy in 1960 when his father stopped tilling the land. Besides, if the Municipality indeed owned Lot 6849 by virtue of a purchase, it is likewise guilty of laches in not protecting or contesting the cultivation by Oñates' agricultural tenants of said portions of Lot 6849.

Transfer Certificates of Title on portions of Lot 6849 valid

Petitioner contends that the reconstitution of OCT No. 2563–covering subject lot in 1991 or 52 years after the Municipality owned said lot–does not in any way affect the latter's preferential and superior right over the disputed lot. In the same vein, it maintains that it is inconsequential that petitioner and the Municipality failed to present as evidence the deed of conveyance in favor of the Municipality, as well as TCT No. 4812 as a registered land owner may lose the right to recover possession of a registered property by reason of laches. Petitioner concludes that the long delayed reconstitution of OCT No. 2563 by respondent was a mere afterthought and intended to camouflage his and his predecessor's unreasonably long inaction which indicates an awareness that they have no valid claim whatsoever over disputed Lot 6849.

We disagree.

It must be noted that a reconstitution proceeding is one in rem and is thus binding to the whole world. While it is true that laches has set in so far as it pertains to the portion of Lot 6849, specifically Lot 6849-A where the Municipality and petitioner DECS had constructed the existing school, such does not hold true for the totality of Lot 6849 as explained above. Indeed, the reconstitution proceeding being one in rem, the consequent issuance of OCT No. RO-18971 in lieu of the lost or destroyed OCT No. 2563 is valid.

Anent the issue of non-notification, we agree with the observation of the courts a quo that even granting arguendo that petitioner was not notified about the reconstitution proceeding, such deficiency is not jurisdictional as to nullify and prevail over the final disposition of the trial court in a proceeding in rem.

More so, while petitioner strongly asserts that the certification in Tax Declaration No. 31954 attesting to the payment of the disputed lot under Municipal Voucher No. 69 and the issuance of TCT No. 4812, which was never disputed nor controverted by respondent, should have been given evidentiary weight by the trial and appellate courts as the presumptions of regularity and validity of such official act have not been overcome, such documents cannot defeat the registered title of respondent.

Between a clear showing of ownership evidenced by a registered title and a certification in a tax declaration, albeit done in an official capacity, the former holds as the latter is only persuasive evidence. Indeed, tax declarations in land cases per se do not constitute ownership without other substantial pieces of evidence.

The records do not show and petitioner has not given any cogent explanation why the Deed of Conveyance in favor of the Municipality of Daraga, Albay and TCT No. 4812 were not presented. With clear and affirmative defenses set up by petitioner and Municipality of Daraga, Albay, it is incumbent for them to present these documents. Therefore, the unmistakable inference is that there was indeed no sale and conveyance by Claro Oñate of Lot 6849 in favor of the Municipality. Consequently, the TCTs cancelling OCT No. RO-18971 covering Lot Nos. 6849-A, 6849-B, 6849-C, 6849-D, and 6849-E were likewise validly issued.

Thus, notwithstanding valid titles over the portions of Lot 6849, respondent Oñate cannot now take possession over Lot No. 6849-A for reason of laches. In the recent case of De Vera-Cruz v. Miguel, we reiterated the principle we have consistently applied in laches:

> The law[55] provides that no title to registered land in derogation of that of the registered owner can be acquired by prescription or adverse possession. Nonetheless, while it is true that a Torrens Title is indefeasible and imprescriptible, the registered landowner may lose his right to recover the possession of his registered property by reason of laches.[56]

Thus, with our resolution of the principal issue of applicability of the equitable remedy of laches, the issue of suability of the State has been mooted.

A final word. Considering our foregoing disquisition and upon grounds of equity, a modification of the final decision prevailing between respondent Oñate and the Municipality of Daraga, Albay is in order. It would be grossly iniquitous for respondent Oñate to pay PhP 50,000 to the Municipality of Daraga, Albay considering that he is not entitled to recover the possession and usufruct of Lot No. 6849-A.

WHEREFORE, the instant petition is GRANTED and the January 14, 2004 Decision of the CA in CA-G.R. CV No. 60659 affirming the November 3, 1997 Decision of the Legaspi City RTC is AFFIRMED with the following MODIFICATIONS:

1) Declaring the DepEd (formerly DECS), Division of Albay to have the rights of possession and usufruct over Lot 6849-A with an area of 13,072 square meters under TCT No. T-83946 of the Registry of Deeds of Albay, as a result of laches on the part of respondent Celso Oñate and his predecessors-in-interest. Respondent Celso Oñate,

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his heirs, assigns, and successors-in-interest are prohibited from selling, mortgaging, or encumbering Lot 6849-A while the said lot is still being used and occupied by petitioner DECS. However, the rights of possession and usufruct will be restored to respondent the moment petitioner DECS no longer needs the said lot. The Registry of Deeds of Albay is ordered to annotate the aforementioned restrictions and conditions at the back of TCT No. T-83946-A in the name of respondent Celso Oñate. Item No. 2 of the November 3, 1997 Decision of the Legaspi City RTC is modified accordingly;

2) Declaring Celso Oñate as the true and legal owner in fee simple of the following lots:

- Lot 6849-C with an area of 10,000 square meters under TCT No. T-83948 of the Registry of Deeds of Albay;

- Lot 6849-D with an area of 1,127 square meters under TCT No. T-83949 of the Registry of Deeds of Albay; and

- Lot 6849-E with an area of 608 square meters under TCT No. T-83950 of the Registry of Deeds of Albay.

3) Declaring Mariano M. Lim as true and legal owner of Lot 6849-B with an area of 3,100 square meters under TCT No. T-84049 of the Registry of Deeds of Albay;

4) Ordering petitioner DECS and all other persons claiming under said department to return the possession of Lots 6849-C, 6849-D, and 6849-E to respondent Celso Oñate and Lot 6849-B to Mariano M. Lim; and

5) Deleting Item No. 4 of the November 3, 1997 Decision of the Legaspi City RTC, which ordered respondent Celso Oñate to pay Fifty Thousand Pesos (PhP 50,000) to defendant Municipality of Daraga, Albay.

The November 3, 1997 Decision of the Legaspi City RTC is AFFIRMED in all other respects.

No costs.

SO ORDERED.

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

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[1] Rollo, pp. 13-48.

[2] Id. at 50-60. The Decision was penned by Associate Justice Sergio L. Pestaño and concurred in by Associate Justices Marina L. Buzon (Chairperson) and Jose C. Mendoza.

[3] Id. at 61-82.

[4] Records, pp. 6-7.

[5] Issued on October 16, 1992.

[6] Records, pp. 164-171. See the August 14, 1995 Decision entitled Heirs of Rafael Oñate, represented by Diego Oñate v. Spouses Celso Oñate and Allem Vellez.

[7] Id. at 178-179.

[8] Id. at 180-181.

[9] Id. at 182-183.

[10] Id. at 184-185.

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[11] Id. at 186-187.

[12] Id. at 190-191.

[13] Id. at 192.

[14] Id. at 193.

[15] Id. at 194.

[16] Id. at 1-4.

[17] Id. at 24-27.

[18] Id. at 29-31.

[19] TSN, November 3, 1993 and July 12, 1994.

[20] TSN, February 14, 1994 and August 3, 1995.

[21] Records, pp. 97-100.

[22] Id. at 106-111.

[23] Id. at 112-117, March 11, 1994 Order of the RTC.

[24] Id. at 189.

[25] Id. at 195.

[26] Id. at 101.

[27] Id. at 102.

[28] Id. at 103.

[29] Id. at 104.

[30] Id. at 105.

[31] TSN, February 22, 1996.

[32] TSN, September 30, 1996.

[33] Supra note 3, at 81-82.

[34] Art. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 456 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

[35] Records, pp. 296 & 298.

[36] CA rollo, p. 17.

[37] Id. at 18-19.

[38] Id. at 21.

[39] Id. at 28.

[40] Id. at 59.

[41] G.R. No. L-26400, February 29, 1972, 43 SCRA 360.

[42] Supra note 2.

[43] Rollo, pp. 25-26.

[44] See United States of America v. Guinto, G.R. Nos. 76607, 79470, 80018 & 80258, February 26, 1990, 182 SCRA 644; and DAR v. NLRC, G.R. No. 104269, November 11, 1993, 227 SCRA 693.

[45] Records, p. 213.

[46] Soliva v. The Intestate Estate of Marcelo M. Villalba, G.R. No. 154017, December 8, 2003, 417 SCRA 277, 286; citing Ramos v. Heirs of Ramos, Sr., G.R. No. 140848, April 25, 2002, 381 SCRA 594, 605; and Westmont Bank v. Ong, G.R. No. 132560, January 30, 2002, 375 SCRA 212, 222.

[47] Felix Gochan and Sons Realty Corporation v. Heirs of Baba, G.R. No. 138945, August 19, 2003, 409 SCRA 306, 315; citing Santos v. Santos, G.R. No. 133895, October 2, 2001, 366 SCRA 395, 405-406.

[48] Id.

[49] G.R. No. 103959, August 21, 1997, 278 SCRA 98, 112.

[50] Supra note 32.

[51] Id. at 4.

[52] Id. at 5.

[53] Supra note 19.

[54] Supra note 31.

[55] Act. No. 496, Sec. 46 (The Land Registration Act), now P.D. No. 1529 (Property Registration Decree).

[56] G.R. No. 144103, August 31, 2005, 468 SCRA 506, 518; citing Isabela Colleges, Inc. v. Heirs of Nieves Tolentino-Rivera, G.R. No. 132677, October 20, 2000, 344 SCRA 95, 106-107.

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