

**RUBEN ROMERO, REPRESENTED BY DIOSDADO ROMERO,
PETITIONER, VS. EDISON N. NATIVIDAD AND HERMINIA
NATIVIDAD-MEJORADA, RESPONDENTS.**

G.R. NO. 161943. June 28, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Assailed in this petition for review on certiorari under Rule 45 of the Rules of Court is the decision[1] dated August 29, 2003 of the Court of Appeals in CA-G.R. CV. No. 71617, affirming with modification the June 15, 2001 decision of the Regional Trial Court (RTC) at Morong, Rizal in an action for recovery of possession and quieting of title thereat commenced by the herein petitioner Ruben Romero against respondents Edison Natividad and Herminia Natividad-Mejorada.

Subject of the controversy is a portion of a parcel of land at T. Claudio St., Morong, Rizal and covered by T.C.T. No. 20890 in the name of one Francisca Galarosa (Francisca, hereafter).

Petitioner Ruben Romero is Francisca's grandson while respondents Edison Natividad and Herminia Natividad-Majorada are Francisca's great grandnephew and great grandniece, respectively.

In the latter part of 1996, petitioner filed with the RTC at Morong, Rizal a complaint for recovery of possession and quieting of title against respondents, alleging that he is the owner of the subject property by virtue of inheritance from his mother, Estelita Bautista-Atendido (Estelita), who, in turn, inherited the same from her mother, Francisca. Petitioner claims that on July 27, 1994, respondents, despite knowledge that the property belonged to him, entered the contested portion of the land and constructed a building of strong materials thereon.

In their answer, respondents raised the defense of prescription and laches. They averred that they and their predecessors-in-interest had been in open, continuous and uninterrupted possession of the subject property since the 1920's when it was donated to their grandparents, Demetrio Natividad and Ulpiana Raymundo, by the latters' aunt Francisca, when Ulpiana got married; that their father, Herminigildo Natividad, inherited the same portion from their grandparents; and that, they, in turn, inherited the property upon their father's death. Respondents pointed out that during the lifetime of their father Herminigildo, the latter operated a bakery store thereon until it was burned. On March 3, 1994, they constructed a commercial building on said property.

In a decision dated June 15, 2001,[2] the trial court rendered judgment for the respondents by dismissing petitioner's complaint and ordering him to pay attorney's fees, thus:

WHEREFORE, in view of the foregoing judgment is hereby rendered in favor of the defendants and as against the plaintiff, dismissing the complaint for utter lack of merit, and ordering the latter to pay defendants P50,000.00 in concept of attorney's fee plus P1,000.00 per actual appearance of defendants counsel in court. Without pronouncement as to costs and damages.

SO ORDERED.

In ruling for the respondents, the trial court declared that the latters' long possession had ripened to acquisitive prescription in their favor:

This court is of the opinion and so holds that the defendants are now the owners of the disputed lot involved in this case. Defendants predecessors-in-interest spouses Demetrio Natividad and Ulpiana Raymundo after the execution of the Deed of Donation dated May 21, 1921 took possession of the portion of the lot in question where they engaged their usual business without anybody from the plaintiff's relatives disturbing and questioning the possession. Demetrio Natividad had caused to declare for taxation purposes the improvement he introduced into the disputed lot, and for the period from the deed of donation executed by Francisca Galarosa, grandmother of the plaintiff, up to the present, efforts to recover possession were unsuccessful, thus strengthening the rightful claim of possession and ownership over the land in question by the defendants. Indeed, it has been an acknowledged principle in law, that uninterrupted possession in concept of owner, ripens into ownership. In the case at bar, plaintiff as well as his predecessor-in-interest had failed to question within the period allowable under the law, the claim of possession and ownership by defendants and their predecessor-in-interest. As correctly pointed out by the defendants' counsel, plaintiff and his predecessor slept on their right to recover ownership and possession of the disputed property, and this neglect should be counted against them. Defendants' possession in concept of owner, metamorphosed into an acquisitive prescription, that granted them the right to consolidate their right of ownership over the lot in question.[3]

On appeal to the Court of Appeals in CA-G.R. CV No. 71617, petitioner argued that the trial court erred in declaring respondents as owners of the subject property on the basis of prescription as there can be no prescription against a titled property. He also insists that there was no valid donation by Francisca because it was not contained in a public document, as required by law, adding that respondents' grandfather Demetrio was never in possession of the entire property because he only occupied the second floor of the building then existing thereon.

In the herein assailed decision[4] dated August 29, 2003, the appellate court affirmed with modification the appealed decision of the trial court by deleting the award of attorney's fees:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Morong, Rizal, Branch 79, dated 15 June 2001, is hereby AFFIRMED with the MODIFICATION that the award of attorney's fees is hereby DELETED.

SO ORDERED.

In arriving at such a disposition, the appellate court refused to apply the general rule regarding the operation of prescription against a titled property, ratiocinating that said rule does not apply if the person invoking it is not the registered owner, as in this case.

Petitioner moved for reconsideration but his motion was denied by the appellate court in its subsequent resolution[5] of January 29, 2004.

Hence, petitioner's present recourse seeking reversal of the challenged decision and resolution of the Court of Appeals.

The petition is unavailing.

Apparently, the instant case was not the only one instituted by petitioner against respondents. Sometime in 1994, an ejectment suit (Civil Case No. 566) was filed by him but it was dismissed for his failure to prove prior possession of the disputed property. Later, a case for recovery of possession (Civil Case No. 680-M) was also instituted by the petitioner but similarly dismissed.

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. The question of laches is addressed to the sound discretion of the court, and since laches is an equitable doctrine, its application is controlled by equitable considerations. It cannot work to defeat justice or to perpetrate fraud and injustice. It would be rank injustice and patently iniquitous to deprive the lawful heirs of their rightful inheritance.

Here, we are inclined to apply the above rule in favor of respondents. We find support in *Tambot, et al. v. Court of Appeals, et al.*[6] where this Court, through then Associate Justice Carolina Griño-Aquino, held:

The Court of Appeals' ruling that the private respondents, by continuous, open, and adverse possession of the land for more than thirty-six (36) years as owner, had acquired title through prescription and that the petitioners' title is not protected by Section 46 of the Land Registration Act (which provides that a registered owner's title may not be lost through prescription) because the petitioners are not the registered owners of the land in question, finds support in various decisions of this Court.

In *Wright, Jr., et al. vs. Lepanto Consolidated Mining Co.*,[7] where the mining company's possession of the mining claims under the color of title began since 1936 while the appellants whose father had been the patentee of those claims did not lift a finger to assert their title or right for over 25 years, this Court held:

xxx Assuming that Albert P. Wright ever held a Torrens title to the claims (which is not adequately shown), and that his ownership and that of his heirs may not be defeated by prescription, still those rights have become barred by their inactivity and laches for nearly thirty years. This long inaction, coupled with renewed activity after total destruction of official records, strongly indicate an unmeritorious claim.

The above jurisprudence finds application in this case. For one, as in *Tambot*, herein petitioner is not the registered owner of the land in question. Moreover, it was never disputed that respondents and their predecessors-in-interest had been in open, continuous and uninterrupted possession of the subject parcel of land since the 1920's. It was only in 1994, or after a period of about seventy-four (74) years when petitioner started asserting ownership by filing an ejectment case against them.

For another, even if we take into consideration that there was a case filed by petitioner's mother Estelita against Demetrio Natividad in 1965, said case was filed only after forty-four (44) years from the time respondents' grandfather Demetrio Natividad first started occupying the property in the early 1920's. The Court also notes that this case was dismissed by agreement of the parties, although it can no longer be determined from the records what exactly was the agreement reached. It should further be noted that from 1965 until 1996, when petitioner filed his complaint in this case, a period of twenty-six (26) years have lapsed and no other case was filed against respondents.

Petitioner would rely on the case of *Mateo vs. Diaz* where this Court ruled that no title to registered land in derogation to that of a registered owner shall be acquired by prescription or adverse possession and that the heirs of the registered owner are not estopped from claiming their father's property, since they merely stepped into the shoes of the previous owners.

Unfortunately, the *Mateo* case is not on all fours with the case at bar. In *Mateo*, it was found that immediately after petitioners therein discovered the existence of the original certificate of title of the disputed property in the name of their father, they took steps to assert their rights thereto. Petitioners divided the property among themselves in an extra-judicial partition. Then they filed an action to recover ownership and possession as the only surviving children of the original owner.

In contrast, petitioner in the present case and his deceased mother have slumbered on their perceived rights for seventy (70) years.

Verily, in a number of cases, it had been held that laches, the essence of which is the neglect to assert a right over a long period of time, may prevent recovery of a titled property.[8] For sure, in the same case of Tambot, this Court further held that laches will bar recovery of the property even if the mode of transfer was invalid:

In *Heirs of Batiog Lacamen vs. Heirs of Laruan*, 65 SCRA 606, Laruan conveyed a parcel of land in La Trinidad, Benguet, to Batiog Lacamen in 1928 for P300. The deed was acknowledged before a notary in Baguio City, and immediately after the sale, Laruan delivered the certificate of title No. 420 to Lacamen who entered in possession of the land without securing a transfer certificate of title in his name. He introduced improvements and paid the taxes. After his death in 1942, his heirs remained in possession of the land and also paid the taxes. However, they discovered in 1957 that Laruan's heirs (Laruan had died in 1938) had obtained a new owner's copy of Certificate of Title No. 420 by alleging in a petition filed in court that their copy had been lost or destroyed. Lacamen's heirs sued for reconveyance. Laruan's heirs alleged that the sale to Lacamen was null and void under Act. No. 2874 and Sections 145 and 146 of the Code of Mindanao and Sulu. This Court upheld the title of Lacamen and his heirs despite the invalidity of the sale.

'It has been held that while a person may not acquire title to the registered property through continuous adverse possession, in derogation of the title of the original registered owner, the heir of the latter, however, may lose his right to recover back the possession of such property and the title thereto, by reason of laches. Much more should it be in the instant case where the possession of nearly 30 years or almost half a century now is in pursuance of sale which regrettably did not bear the approval of the executive authority but which the vendor never questioned during his life time. Laruan's laches extends to his heirs, the respondents-appellants herein, since they stand in privity with him.'

Where a period of 37 years elapsed between the sale of land by the patentee (Mejia) to Zacarias Ciscar and the action of Mejia's heirs to recover it from the vendee (Gamponia) of an heir of Ciscar, the Court ruled that:

'While the defendant may not be considered as having acquired title by virtue of his and his predecessors' long continued possession (37 years), the original owner's right to recover back the possession of the property and the title thereto from the defendant has, by the latter's long period of possession and by patentee's inaction and neglect, been converted into a stale demand.' (*Mejia de Lucas vs. Gamponia*, 100 Phil. 277, 280)

In *Vda. De Lima vs. Tio*, 32 SCRA 516, where the plaintiff's paraphernal property was sold in 1936 by her husband without her consent and her action to recover it was filed only in 1964, or after 28 years, we likewise ruled:

'It is now an established doctrine that inaction and neglect convert what otherwise could be a valid claim into a stale demand x x x Such passivity in the face of what might have given rise to an action in court is visited with the loss of such a right. That in essence is what laches signifies. Nor does ignorance resulting from inexcusable negligence suffice to explain such failure to file seasonably the necessary suit.' (181 SCRA at 207-208) (Emphasis supplied)

To recapitulate, respondents and their predecessors-in-interest had been in open continuous possession of the property in question since the early 1920's when the former owner Francisca Galarosa executed what was intended as a deed of donation propter nuptias. Petitioner's and his predecessor-in-interest's neglect to assert ownership for a long period of time acts as a bar to the present action. *Vigilantibus sed non dormientibus jura subvertuntur*. The law aids the vigilant, not those who sleep on their rights. This legal precept finds perfect application in the case at bar.

WHEREFORE, the petition is hereby DENIED and the assailed decision and resolution of the Court of Appeals

AFFIRMED.

Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

[1] Penned by Associate Justice Andres B. Reyes, Jr., with then Associate Justice (now deceased) Eubulo G. Verzola and Associate Justice Regalado E. Maambong, concurring.

[2] Rollo, pp. 66-78.

[3] RTC decision, p. 12; Rollo, p. 77.

[4] Rollo, pp. 37-47.

[5] Rollo, p. 49.

[6] 181 SCRA 202 [1990].

[7] 11 SCRA 508 [1964].

[8] Ignacio v. Basilio, et al., 366 SCRA 15 [2001]; Po Lam v. Court of Appeals et al., 347 SCRA 86 [2000]; Declaro, et al, v. Court of Appeal, et al., 346 SCRA 57 [2000].

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