

**PEDRO GENEROSA, DECEASED, NOW SUBSTITUTED BY HIS HEIRS,
VIDA R. GENEROSA, ROBERT R. GENEROSA, EDMUNDO R.
GENEROSA, PEDRO R. GENEROSA, JR., AMALIA R. GENEROSA, LIZA
R. GENEROSA, ...**

G.R. NO. 166521. August 31, 2006

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GARCIA, J.:

This recourse, styled as a "Partial Petition for Review on Certiorari," seeks the modification of the Decision^[1] dated September 29, 2004 of the Court of Appeals (CA), as reiterated in its Resolution^[2] of December 1, 2004, in CA-G.R. CV No. 79749, reversing and setting aside an earlier decision of the Regional Trial Court (RTC) of Urdaneta City, Pangasinan, Branch 47, in an action for annulment of documents, recovery of possession and damages with application for a writ of preliminary injunction thereat commenced by the herein respondent Pacita Prangan-Valera against, among others, Pedro Generosa, now substituted by his widow Vida R. Generosa and their children.

The petition is casts against the following factual backdrop:

Following the death of the spouses Maximo Soriano and Manuela Delatre, their two children, namely, Maria and Felipa, inherited from them two (2) adjoining parcels of land with an aggregate area of 9,838 square meters, situated in Licsi, Manaoag, Pangasinan and covered by Tax Declaration No. 9825 in the name of Maximo Soriano. One parcel has an area of 5,219 square meters, while the other, an area of 4,619 square meters. On May 27, 1959, the sisters Maria and Felipa executed a Deed of Extrajudicial Partition whereunder the bigger parcel was adjudicated to Maria while the smaller parcel went to Felipa.

The land subject of this case is the 5,219 square meter parcel representing Maria's share in the property left by the parents. It was declared in Maria's name under Tax Declaration No. 17723 (1960) and 17730.

Maria was married to Eleuterio Valera, while her sister Felipa, to Fidel Generosa.

Maria and Eleuterio were childless, while Felipa and Fidel had three (3) children, namely, Alfonso, Pedro and Florencio, all surnamed Generosa.

Maria died on February 8, 1971, while her sister Felipa, on June 3, 1960.

On October 18, 1984, or long after Maria's death, her husband Eleuterio married the herein respondent, Pacita Prangan-Valera. On March 31, 1989, Eleuterio executed an affidavit adjudicating unto himself as sole heir the property left behind by his deceased first wife Maria. Consequently, the tax declaration formerly in the name of Maria was cancelled and replaced by Tax Declaration No. 4528 in the name of Eleuterio.

On October 17, 1990, Eleuterio died, survived by his second wife, Pacita Prangan-Valera.

On November 5, 1990, the brothers Alfonso, Pedro and Florencio, all surnamed Generosa (children of Maria's sister Felipa) executed a document entitled "Deed of Extrajudicial Partition With Sale," therein stating that they

are the sole heirs of Eleuterio Valera and as such succeeded to his rights, interest and ownership of the property left by Eleuterio's first wife, Maria. In the same document, the brothers Alfonso and Florencio sold their alleged share in the property to their brother Pedro and the latter's wife, Vida Rosario Generosa. Pursuant to said document, Pedro and his wife, Vida, obtained a tax declaration in their own names covering the entire parcel of what used to be Maria's share in the property of her parents.

Such was the state of things when, on November 25, 1991, in the RTC of Urdaneta City, herein respondent Pacita Prangan-Valera filed the complaint in this case against the brothers Pedro, Alfonso and Florencio. Docketed in said court as Civil Case No. V-5268 and raffled to Branch 47 thereof, the complaint prayed for the annulment of the aforesaid Deed of Extrajudicial Partition With Sale executed by the defendant brothers and the recovery of possession and ownership of the property in dispute, plus damages, attorney's fees and litigation expenses.

In gist, the complaint alleged that the brothers Alfonso, Pedro, and Florencio were never legitimate heirs of the plaintiff's deceased husband, Eleuterio Valera, nor are they related to the latter; that when her husband's first wife Maria died in 1971, Eleuterio continued in possession of the subject property even after he married her (plaintiff) in 1984; that when Eleuterio died in 1990, she continued in possession of the same property until her possession thereof was interrupted when the defendant brothers surreptitiously took possession of the property in 1991, after arrogating unto themselves the very same property on the basis of a falsified Deed of Extrajudicial Partition With Sale wherein said defendants made it appear that they are the sole heirs of her husband, Eleuterio Valera; that on account of the misrepresentation committed by the three, she filed against them a criminal complaint for falsification of public document, docketed as Criminal Case No. D-11039; that the brothers Alfonso and Florencio were convicted in said case and subsequently applied for probation while their brother Pedro was dropped from the case on account of his death during the pendency thereof.

In their Answer, the defendant brothers basically sought refuge on their claim of prescription, alleging that they have been in possession of the disputed property for more than thirty (30) years.

During the pendency of the suit, defendant Pedro Generosa died and was accordingly substituted by his widow, Vida Generosa, and their children, to wit: Robert, Edmundo, Pedro, Jr., Amalia, Liza, Melody and Fidel, all surnamed Generosa, the petitioners herein.

In a decision[3] dated February 7, 2003, the RTC found for the plaintiff, now respondent Pacita Prangan-Valera. It annulled the Deed of Extrajudicial Partition With Sale executed by the three brothers and awarded the entire property subject of the suit to the respondent, with damages, attorney's fees and litigation expenses. More specifically, the decision dispositively reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- The Deed of Extra-Judicial Partition with sale dated 5 November 1990 (Exh. "C") is hereby ANNULLED and declared NULL and VOID;
- Tax Declaration No. 5428 in the names of Pedro Generosa and Vida Rosario (Exh. "E") is hereby CANCELLED and ANNULLED;
- Tax Declaration No. 4528 (Exh. "C") in the name of Eleuterio Valera is hereby ordered to be reinstated. The Municipal assessor of Manaoag, Pangasinan is ordered to reinstate the same in the name of Eleuterio Valera. Likewise, the Provincial Assessor of the Province of Pangasinan is directed and ordered to reinstate the same in the name of Eleuterio Valera;
- Defendants Alfonso Generosa, Florencio Generosa, Vida Generosa and the heirs of deceased Pedro Generosa, namely: Bida Generosa, Robert Generosa, Edmundo Generosa, Pedro Generosa, Jr., Amalia

Generosa, Liza Generosa, Melody Generosa and Fidel Generosa, are directed to deliver, reconvey the possession and ownership of that property located in Licsi, Manaoag, Pangasinan containing an area of 5,319 square meters, more or less, bounded on North by Maximo Soriano; East by Road; South by Pedro Rous and Crispin Buessa; West by Mariano Soriano, declared under Tax Decl. No. 4528 and assessed at P1,900.00 to the plaintiff;

- Ordering defendants to pay plaintiff the sum of P10,000.00 as attorney's fees, P5,000.00 as expenses of litigation and the additional sum of P30,000.00 for and as moral damages.

Costs against the defendants.

SO ORDERED.

From the aforementioned decision of the trial court, the defendants, now petitioners, went on appeal to the CA whereat their appellate recourse was docketed as CA-G.R. CV No. 79749.

As stated at the threshold hereof, the CA, in its decision[4] of September 29, 2004, reversed and set aside that of the trial court, thus:

WHEREFORE, premises considered, the present appeal is hereby GRANTED and the appeal decision in Civil Case No. U-5268 is hereby REVERSED and SET ASIDE. A new judgment is hereby entered declaring that the legal heirs of Maria Soriano Valera are her surviving spouse, the late Eleuterio Valera (succeeded by his widow, herein plaintiff-appellee), who is entitled to one-half (1/2) of the subject property; and her brothers (sic), Alfonso, Pedro (deceased) and Florencio, or their children, herein appellants, who are entitled to the other half of the property.

No pronouncement as to costs.

SO ORDERED.

In decreeing the division of the subject property between the petitioners and the respondent in equal shares, the CA ruled that the conviction of the brothers Alfonso and Florencio in the criminal case for falsification of public document filed against them and their brother Pedro at the instance of the respondent "is a concern of the authorities" ... and "will not result in the nullification of their rights as co-owners [of the respondent] where such act does not fall under any of the legal grounds for disqualification to succeed as heirs under Articles 1027 and 1032 of the Civil Code." To the CA, the rightful heirs of Maria Soriano-Valera to whom the property involved in the case originally belonged are, on the one hand, the petitioners herein, in representation of Maria's nephews, and on the other hand, her deceased husband Eleuterio Valera, represented by his second wife, the herein respondent Pacita Prangan-Valera, which two (2) sets of heirs are entitled to ½ each of the property left by Maria.

In time, the petitioners moved for a reconsideration claiming that to them alone belong the entire property left by Maria. With their motion having been denied by the CA in its Resolution of December 1, 2004,[5] the petitioners are now with this Court via the present recourse on their lone submission that —

THE HONORABLE COURT OF APPEALS ERRED IN NOT RULING THAT PETITIONERS ARE THE OWNERS OF THE PROPERTY WITH RESPECT TO THE ONE-HALF (1/2) AWARDED TO RESPONDENT BY ACQUISITIVE PRESCRIPTION HAVING BEEN IN POSSESSION THEREOF FOR MORE THAN TWENTY (20) YEARS.

No similar recourse was taken by the respondent.

We DENY.

The evidence on record belies the petitioners' pretension of possession for more than twenty (20) years. As found by the trial court and borne by the evidence:

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"It was only in 1991, after the death of [respondent's] husband that the said defendants [i.e., the brothers Alfonso, Pedro and Florencio] on the basis of the falsified deed of extra-judicial partition with sale took possession of the property. The claim that they were in possession of the property for more than thirty (30) years appears unsupported. In fact, their own evidence (EXHIBITS "5" and "6") belies their claims of prescription and possession of the property. It was only in 1971, after the death of MARIA, former wife of ELEUTERIO, that defendants were entitled to successional rights over the property in question in conjunction with ELEUTERIO as surviving spouse.

xxx xxx xxx

It appearing that the property under litigation was transferred in the names of the defendant spouses [Pedro Generosa and Vida Generosa] in 1991 and the action for annulment of document and reconveyance of ownership and recovery of possession was filed in 1993, the action has not yet prescribed." (Words in brackets supplied.)

In any event, and as correctly pointed out by the CA, acquisitive prescription, as laches, is based on the doctrine equity. It cannot be invoked to defeat justice or to perpetuate an injustice. Equity, which has been aptly described as "justice outside legality," should be applied only in the absence of, and never against, statutory law. *Aequetas nunquam contravenit legis*.^[6] The positive mandate of Article 494^[7] of the Civil Code conferring imprescriptibility to actions of a co-owner or co-heir against his co-owners or co-heirs should preempt and prevail over all abstract arguments based only on equity. Certainly, laches cannot be set up to resist the enforcement of an imprescriptible legal right, and the herein respondent can validly vindicate her inheritance despite the lapse of time.

To reiterate, the herein parties are co-owners of the property subject of the controversy. Surely, in order that title may prescribe in favor of one of the co-owners, it must be clearly shown that he has repudiated the claims of the others, and that they were apprised of his claim of adverse and exclusive ownership, before the prescriptive period begins to run.^[8] The evidence relative to the possession, as a fact, upon which the alleged prescription is based, must be clear, complete and conclusive in order to establish said prescription without shadow of doubt.^[9] This is not the case here. To stress, the petitioners' claim that they were in possession of the property for more than thirty (30) years appears unsupported. In fact, their own evidence belied their claim of prescription and possession of the property. As found by the trial court, it was only in 1991, after the death of the respondent's husband Eleuterio that the petitioners on the basis of the falsified deed of extrajudicial partition with sale took possession of the property. As it is, the petitioners could neither invoke acquisitive prescription because their mode of acquisition was illegal and void. Ordinary acquisitive prescription requires possession of things in good faith and with just title of the time fixed by law.

It may also be added that the possession of co-owners is like that of a trustee. In order that his possession may be deemed adverse to the cestui que trust or the other co-owners, the following requisites must concur: (1) that he has performed unequivocal acts of repudiation amounting to an ouster of the cestui que trust or other co-owners, (2) that such positive acts of repudiation have been made known to the cestui que trust or other co-owners, and (3) that the evidence thereon must be clear and convincing.

Even granting, arguendo, that the falsified deed of extrajudicial partition with sale could be taken as a positive act of repudiation of the co-ownership existing between the respondent and the petitioners' predecessor-in-interest,

there is clearly no showing that prescription has set in, given the fact the property under litigation was transferred in the names of the petitioners in 1991 and the action for annulment of documents, reconveyance of ownership and recovery of possession was filed by the respondent in 1991. The action has not yet prescribed. Article 1456 of the Civil Code provides that if a property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes. This provision, in conjunction with Article 1144, gives the respondent a prescriptive period of ten years, for an obligation under an implied trust is one created by law. Accordingly, an action for reconveyance of a parcel of land based on an implied or constructive trust prescribes in ten years, the point of reference being the date of the registration of the deed of sale or the date of the issuance of the certificate of title over the property.

All told, the Court rules and so hold that the CA correctly adjudicated the disputed parcel of land in such a way that one-half (1/2) thereof shall pertain to the respondent as successor of Eleuterio Valera, while the other one-half (1/2) to the petitioners, in accordance with Article 1001 of the Civil Code.[10]

WHEREFORE, petition is DENIED. The assailed decision of the Court of Appeals is hereby AFFIRMED in toto.

Cost against petitioners.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez and Azcuna, JJ., concur. Corona, J., on leave.

[1] Penned by Associate Justice Martin S. Villarama, Jr., with Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao concurring; Rollo, pp. 20-36.

[2] Id. at 38.

[3] Id. at 87-97.

[4] Supra note 1.

[5] Supra note 2.

[6] Aznar Brothers Realty Company v. Heirs of Aniceto Augusto & Petrona Calipan, G.R. No. 140417, May 28, 2004, 430 SCRA 156.

[7] Art. 494. xxx

No prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs so long as he expressly or impliedly recognizes the co-ownership. (400a)

[8] Cortes v. Oliva, 33 Phil. 480 (1916); Jardin v. Hallasco, G.R. No. L-55225, September 30, 1982, 117 SCRA 532; Pangan v. Court of Appeals, G.R. No. L-39299, October 18, 1988, 166 SCRA 375.

[9] Santos v. Heirs of Crisostomo, 41 Phil. 342 (1921); Birondo v. Mier, 34 Phil. 576 (1916); Cabello v. Cabello, 37 Phil. 328 (1917); Beltran, et al. v. Beltran, et al. (C.A.) 54 Off. Gaz. 3251.

[10] Art. 1001. xxx

Should brothers and sisters or their children survive with the widow or widower, the latter shall be entitled to one-half of the inheritance and the brothers and sisters or their children to the other half. (953,837a)

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