

BARTOLA M. VDA. DE TIRONA, CRISTINA T. DACANAY, ALFREDO M. TIRONA, MANUEL M. TIRONA, FERNANDO M. TIRONA, GLORIA T. LIBANG, MA. LUISA T. OÑAS, EMILIANO M. TIRONA III, MARTINA T. ...

G.R. No. 168902. September 28, 2007

Ponente: NACHURA, J.

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NACHURA, J.:

This petition seeks the reversal of the November 28, 2003 Decision[1] of the Court of Appeals in CA-G.R. CV No. 70412 affirming the April 6, 2000 Decision[2] of the Regional Trial Court (RTC) of Imus, Cavite, Branch 22, in Civil Case No. 1193-95 which dismissed the accion publiciana filed by petitioners.

Brothers Teodoro and Benjamin Tirona , both now deceased, were co-owners of a tract of land located in Kawit, Cavite, covered by Transfer Certificate of Title (TCT) No. (T-13391) RT-1883, which apparently consisted of two (2) lots, Lot No. 965 and Lot No. 966.

On October 3, 1959, Teodoro Tirona, with the conformity of his wife, petitioner Bartola, ceded to herein respondent, Cirilo Encarnacion, his one-half (1/2) undivided interest in the said land. The Deed of Absolute Sale[3] stipulated:

That I, TEODORO T. TIRONA, Filipino, of legal age, married to BARTOLA MARTINEZ, and a resident of Kawit, Cavite, but temporarily staying at Quezon City, am the true and absolute owner of one-half (1/2) undivided interest in that parcel of land located at Kawit, Cavite, covered by Transfer Certificate of Title No. (T-13391) RT-1883 of the Office of the Register of Deeds for the province of Cavite, more particularly described as follows:

“A parcel of land (Lot No. 965 of the Cadastral Survey of Kawit), with the improvements thereon situated in the municipality of Kawit, (Bounded on the NE by Lots (sic) Nos. 962 and 964; on the SE by Lot No. 966; and on the NW by Lot No. 959 and a creek xxx containing an area of Thirty-Two Thousand Eight Hundred Fourteen Square Meters (32,814) more or less xxx [Full technical description appears on (T-13391) RT-1883].”

That for and in consideration of the total amount of FIFTEEN THOUSAND PESOS (P15,000.00), Philippine Currency, of which amount P12,000.00 has (sic) been received by me on January 27, 1959, P2,100.00 had been received by me on June 15, 1959, and P900.00 received by me on this date from CIRILO V. ENCARNACION, Filipino, of legal age, married to CONSUELO DEL ROSARIO, and a resident of Sta. Isabel, Kawit, Cavite, I, TEODORO T. TIRONA, do by these presents cede, transfer, and convey unto said CIRILO V. ENCARNACION all my rights, participations and interests in the parcel of land above mentioned and described.

The parcel of land above mentioned and described is devoted to fishpond and track gardening. The portion of land herein sold and conveyed consists of one-half of the fishpond and one half of the area devoted to track gardening x x x[4]

Upon execution of the Deed, respondent immediately took possession of one-half (1/2) of the parcel of land. He

also occupied its other half by virtue of an “Agreement” dated September 14, 1960[5] executed by Benjamin Tirona and respondent. Therein, respondent and his wife, Consuelo, for and in consideration of their payment of the advanced rentals, were subrogated to the rights of Emiliano Encarnacion and Lino Loyola, lessees of Benjamin Tirona in the latter’s portion of the track garden (locally known as the “Kataasan”) and fishpond, respectively. Respondent then received its harvest and gave half of it to Benjamin Tirona.[6]

On March 2, 1963, Benjamin Tirona conveyed his share of the parcel of land to respondent’s father, Pastor Encarnacion. In the Deed of Absolute Sale,[7] the parties had agreed:

That I, BENJAMIN T. TIRONA, of legal age, married to Cornelia Medina, and resident of Kawit, Cavite for and in consideration of the sum of EIGHTEEN THOUSAND PESOS (P18,000.00), Philippine Currency, to me paid by Pastor Encarnacion, also of legal age, Filipino, married to Jacinta Vales, and resident of Sta. Isabel, Kawit, Cavite, do hereby SELL, TRANSFER, and CONVEY and by these presents have SOLD, TRANSFERRED and CONVEYED unto said Pastor Encarnacion all my rights and interests consisting of one-half (1/2) undivided share in a certain parcel of land, the other one-half (1/2) thereof being owned by Cirilo Encarnacion, which is more particularly described as follows:

A parcel of land (Lot No. 965 of the Cadastral Survey of Kawit), with the improvements thereon, situated in the Municipality of Kawit. Bounded on the NE. by Lots (sic) Nos. 962 and 964; on the SE. by Lot No. 966; and on the NW. by Lot No. 959 and a creek xxx containing an area of THIRTY-TWO THOUSAND EIGHT HUNDRED AND FOURTEEN SQUARE METERS (32,814), more or less, xxx

which is embraced in a Transfer Certificate of Title No. T-462 of the Register of Deeds of Cavite, and one-half (1/2) thereof subject of this sale is declared for taxation purpose under Tax Declaration No. 4375 with an assessed value of P1,810.00, which I inherited from my deceased father Emiliano T. Tirona and which has been in my possession since his death as exclusive owner free from any lien and encumbrance.

That the aforesaid parcel of land is devoted to fishpond and to planting of rice, corn, tomatoes and other garden products.[8]

Upon their father’s death, respondent and his siblings inherited the one-half (1/2) share sold to Pastor Encarnacion. Eventually, respondent became the owner of the entire property.[9]

In the early 1960s, petitioner Cristina Dacanay, daughter of Teodoro, allegedly came to know of his father’s ownership of two adjacent lots, Lot Nos. 965 and 966, upon seeing a Kasunduan sa Hati-Hatian executed in 1956.[10] She then confronted respondent regarding his occupation of Lot No. 966 and told him that what was conveyed to him was only Lot 965. She added that they (petitioners) will conduct a survey of the tract of land.[11] Unfazed, respondent asserted that the said lot was included in the “more or less” phrase stated in the deeds of sale executed in their favor and that he would just see them in court (“Magkita na lang tayo sa korte”).[12] Petitioners, however, did not cause the survey of the property.[13]

On October 9, 1973, petitioners (excluding Fernando M. Tirona, Teodoro D. Tirona and Gallardo D. Tirona), together with Emiliano C. Tirona, Jr., Conchita T. Lim, Armando Lim, Antonio C. Tirona, Corazon T. Tirona, Arnaldo C. Tirona, Edgardo Onas, Gaudencio Libang, Francisco Dacanay, Jr., and Benjamin T. Tirona, instituted an ejectment case[14] against respondent before the Municipal Trial Court (MTC) of Kawit, Cavite (docketed as Civil Case No. 122), alleging the following:

- That the plaintiffs are the legitimate heirs of the deceased Emiliano T. Tirona, Alfredo T. Tirona, Teodoro T. Tirona, residents of Kawit, Cavite[,] who died on April 8, 1952, June 23, 1931, and October 18, 1959, respectively;
- That the said deceased Emiliano T. Tirona, Alfredo T. Tirona, Teodoro T. Tirona, and Benjamin T. Tirona

who is represented in this case by his attorney-in-fact, Emmanuel M. Tirona[,] are the registered owner (sic) of a parcel of land known as Lot No. 966 of the Cadastral survey of Kawit, situated in the Municipality of Kawit, Cavite, consisting of 17,049 square meters, more or less, covered by Original Certificate of Title No. (1799) RO-912, Book (A-9) RO-7, Page (229) 12 of the Register of Deeds for the Provinces (sic) of Cavite, which parcel of land is more particularly described and bounded as follows:

A parcel of land (Lot No. 966 of the Cadastral Survey of Kawit), with the improvements thereon, situated in the Municipality of Kawit. Bounded on the NE. by the property of Guillermo Encarnacion of the Municipality of Kawit; on the SE. and SW. by a creek; and on the NW. by Lot No. 965 x x x containing an area of SEVENTEEN THOUSAND AND FORTY-NINE SQUARE METERS (17,049), more or less x x x

- That the said deceased Emiliano T. Tirona, Alfredo T. Tirona, Teodoro T. Tirona, during their lifetime and also their brother Benjamin T. Tirona, have been in the peaceful possession of the above-described parcel of land;
- That plaintiffs Emiliano C. Tirona, Jr., Arnaldo M. Tirona, Alfredo M. Tirona, Emiliano M. Tirona III, Ramon M. Tirona, Leonor M. Tirona, Antonio C. Tirona, Fernando M. Tirona, Martina M. Tirona, Cristina T. Dacanay, Ma. Luisa T. Onas, Gloria T. Libang, and Conchita T. Lim and Bartola Tirona, upon the death of the said deceased Emiliano T. Tirona, Alfredo T. Tirona, Teodoro T. Tirona, on April 8, 1952, June 23, 1931, and October 18, 1959, respectively[,] have been in peaceful possession of the above-described parcel of land;
- That sometime in February of 1973, the defendant Cirilo V. Encarnacion through strategy and stealth took possession of the above described parcel of land;
- That when the plaintiffs became aware of the fact that the defendant, through strategy and stealth, took possession of the above-described parcel of land, they demanded upon him to surrender peaceably the possession of the same to them; however, defendant unjustifiably and illegally refused to do so and even threatened the plaintiffs with bodily harm should they attempt to take possession of the above-described parcel of land from him x x x[15]

Respondent denied that he took possession of Lot No. 966 through strategy and stealth. He averred that he and his father bought the whole parcel of land from Teodoro and Benjamin Tirona and that they had been in possession of the land as owners; that at the time of the sale, no certificate of title was delivered to them or even presented by the vendors, who alleged, among others, that the land had not been surveyed nor had been the object of any registration proceedings; that respondent introduced and had been making improvements on the property, investing thereon substantial amounts up to the present; that none of the plaintiffs ever disturbed his peaceful possession of the land; and that it was only when OCT No. (1799) RO-912 was annexed to the Complaint that he came to know that Lot No. 966 was titled.[16]

After trial, the MTC declared the plaintiffs in the ejectment case as the lawful owners of Lot No. 966. It found no merit in respondent's contention that the parties in the two separate sales actually intended to convey Lot No. 966.[17] On appeal, however, the Court of First Instance (CFI) of Cavite dismissed the Complaint. It ruled that the MTC had no jurisdiction to try the case since respondent raised a genuine issue of ownership that was "not merely frivolous but on the contrary appears to be meritorious." [18] The plaintiffs, through counsel, then elevated the case to the Court of Appeals, which, on November 13, 1975, denied the Petition for Review for failure to file the same within the reglementary period.[19] Petitioners failed to file a motion for reconsideration of the CA resolution, and thus, the CFI decision became final and executory on December 9, 1975.[20]

Respondent continued to occupy Lot No. 966. Sometime in the 1970s, he developed one-half (1/2) of the track garden into a fishpond. He bulldozed the land and constructed a dike and added salt beds therein.[21]

On the other hand, when the CFI rendered its adverse ruling in the ejectment case, the petitioners left the

administration of the land to their counsel, Atty. Antonio Jose F. Cortez. In the years that ensued, they continued with their migration to the United States of America (U.S.A). Petitioners, however, were able to transfer the title of Lot No. 966 in their names when TCT No. T-81513 was issued on March 2, 1976.[22] At that time, petitioners Teodoro D. Tirona and Gallardo D. Tirona were still minor children of their now deceased father, Arnaldo C. Tirona, one of the registered owners of TCT No. T-81513.[23]

Almost twenty years later, on October 2, 1995, petitioners filed the instant case, docketed as Civil Case No. 1193-1195, for accion publiciana against respondent. In the Complaint,[24] petitioners, except for brothers Teodoro and Gallardo D. Tirona, who only succeeded to the rights of their father, alleged this time that they are the registered owners of Lot No. 966, which is now covered by TCT No. T-81513. Claiming that respondent has been in possession of Lot No. 966 since 1959 without any title thereto or right to occupy the same, petitioners prayed, thus:

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Court that judgment issue (sic) evicting defendant from the property covered by TCT No. 81513 and placing plaintiffs in possession thereof.

It is further respectfully prayed that defendant be ordered to pay plaintiff for his use of their property and/or for unearned profits as follows:

- a. P1,000.00 per month from 1959 up to 1970;
- b. P2,000.00 per month from 1971 to 1980;
- c. P5,000.00 per month from 1981 to 1990;
- d. P10,000.00 per month from 1991 up to the present.

It is likewise respectfully prayed that defendant be ordered to pay exemplary damages of P1,000,000.00, attorney's fees of P100,000.00, appearance fees of P2,000.00 for every court session attended by counsel and costs of litigation.

Plaintiffs pray for such and further relief as may be just and equitable in the premises.[25]

Respondent moved to dismiss the Complaint[26] arguing in the main that since he has been in actual physical possession of the land for almost thirty-six (36) years, petitioners' action to recover the property is already barred by laches. He asserted that even after deducting the period covered by the ejectment case previously filed, the remaining number of years which had elapsed since 1959 still spanned thirty-four (34) years.

Considering the Motion to Dismiss as well as the Opposition[27] thereto, the Reply[28] and the Rejoinder[29] filed by the parties, the court, on August 20, 1996, resolved to require respondent to file his answer and "defer the final hearing and determination of the motion until the trial, in view of the fact that the ground relied upon does not appear to be indubitable." [30]

Respondent asserted in his Answer with Counterclaim[31] that, at the time of the sale, even the Tirona brothers thought that Lot No. 966 was just part of Lot No. 965 and that it had no separate Torrens title. In fact, according to them, the parcels of land sold to him in 1959 and to his father in 1963 were covered by only one title. It appeared, though, that while there were actually two parcels of land contemplated, only Lot No. 965 was mentioned in the deeds of sale.

Petitioners countered that, on the face of the deeds of sale, there was really no such intention on the part of the Tirona brothers to convey Lot No. 966. Even if they admitted that Lot No. 966 has been in respondent's possession since 1959, it was because Teodoro mortgaged it to him. However, said mortgage indebtedness is now already paid.[32] According to petitioners, the applicable law relative to properties covered by Torrens title is Section 47 of Presidential Decree No. 1529 (formerly Section 46 of Act No. 496), which states that "[n]o title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse

possession.”

After trial, the RTC dismissed the Complaint on April 6, 2000:

WHEREFORE, premises considered[,] the Complaint is hereby DISMISSED. Considering the above discussed underlying circumstances of the case, this Court is not inclined to award any damages nor attorney’s fees and no pronouncement as to costs.

SO ORDERED.[33]

While the court was inclined to believe that petitioners proved to be the registered owners of Lot No. 966, finding that TCT No. 81513 has more probative value when weighed against respondent’s evidence, it nonetheless ruled that such fact will not bar the operation of the equitable principle of laches. It opined that the ejectment case filed against respondent in 1973 mirrored petitioners’ neglect and lack of diligence to assert their claim. Said case was instituted fourteen (14) years after their supposed dispossession. Even if the period of its pendency be excluded, petitioners still allowed another twenty (20) years to elapse before commencing the present case, or thirty-four (34) years from 1959, thus, giving rise to the presumption that they have either abandoned their right or have declined to assert it. On the other hand, the court noted that respondent’s possession has remained undisturbed since 1959 as in fact Lot No. 966 was cultivated, improvements were introduced, and community relations already established. To the RTC, respondent appeared to have a valid title over said lot. The respondent’s act of simultaneously taking possession of Lot Nos. 965 and 966 at the time of the conveyance and the presumptive acquiescence of Teodoro Tirona indicated that the parties’ intent at the time of the execution of the Deed of Sale in 1959 was to convey both lots.[34]

Petitioners appealed the case, imputing errors alleged as follows:

- THE DECISION RUNS COUNTER TO EXISTING LAWS PROSCRIBING ACQUISITION OF TITLE THROUGH ADVERSE POSSESSION
- THE TRIAL COURT IGNORED PUBLIC POLICY ON PERSONS LIVING ABROAD
- THE COURT A QUO DISREGARDED ACTS OF PLAINTIFFS-APPELLANTS IN HOLDING ON TO THE PROPERTY
- PLAINTIFFS-APPELLANTS NEVER ABANDONED THEIR CLAIM ON LAND SUBJECT OF LITIGATION
- DEFENDANT-APPELLEE EXERCISED OWNERSHIP OVER A PIECE OF PROPERTY THAT WAS NEVER SOLD OR INTENDED TO BE SOLD TO HIM[35]

Still unconvinced, the Court of Appeals sustained the RTC, disposing, thus:

WHEREFORE, premises considered, the appeal is DENIED. The April 6, 2000 Decision of the Regional Trial Court of Imus, Cavite is hereby AFFIRMED.

SO ORDERED.[36]

In its November 28, 2003 Decision,[37] the appellate court reiterated the enshrined rule that notwithstanding the express provision of the law that no title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession, petitioners are still barred to recover possession of Lot No. 966 by virtue of laches. It held that petitioners’ long passivity to file the accion publiciana case renders their claim a stale demand. Though admitting that respondent has been in continued possession of Lot No. 966 since 1959, petitioners did not contest the same until 1973. Moreover, the contention that they did not leave any managers or

administrators to take charge of Lot No. 966 despite migrating to the U.S.A. belied their claim of non-abandonment. Article 1108 of the Civil Code,[38] which petitioners invoke, covers only prescription, not laches, which is an entirely different concept in law.

Petitioners moved to reconsider the Decision but were denied.[39] Hence, this petition substantially interjecting the same errors assigned before the Court of Appeals.

We deny the petition.

Essentially, the parties would want us to resolve two (2) principal issues: first, whether the Tirona brothers and the Encarnacions actually intended that the sale in 1959 and 1963 should include Lot. No. 966; and second, whether the equitable doctrine of laches defeats petitioners' legal title over said Lot.

Anent the first issue, the Court finds and so holds that the same raised pure questions of fact, which may not be the subject of a petition for review on certiorari.[40] The Supreme Court is not a trier of facts; it is not our function to review, re-evaluate or re-examine evidence presented by the parties during the trial.[41] The factual findings of the trial court when affirmed by the appellate court are conclusive and binding on the parties and must remain undisturbed by this Court,[42] unless the case falls under any of the following recognized exceptions:

(1)

When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;

(2)

When the inference made is manifestly mistaken, absurd or impossible;

(3)

Where there is a grave abuse of discretion;

(4)

When the judgment is based on a misapprehension of facts;

(5)

When the findings of fact are conflicting;

(6)

When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;

(7)

When the findings are contrary to those of the trial court;

(8)

When the findings of fact are conclusions without citation of specific evidence on which they are based;

(9)

When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and

(10)

When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.[43]

From the records of the case, no cogent evidence appears that would impel us to apply the above doctrine differently. The courts below have not overlooked essential facts, documentary, testimonial or otherwise, which, if considered in its entirety, may produce a different outcome. Hence, we find no compelling reason to revisit the factual conclusions of the RTC and the CA which upheld the apparent legal title of petitioners over Lot No. 966.

With respect to the second issue, we rule that albeit petitioners appear to be the legal owners of Lot. No. 966, they are barred from recovering its possession by reason of laches. While jurisprudence is settled on the imprescriptibility and indefeasibility of a Torrens title, there is equally an abundance of cases where we unequivocally ruled that registered owners may lose their right to recover possession of property through the equitable principle of laches.[44] Again, by laches we mean:

x x x the failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert it either has abandoned or declined to assert it. The defense of laches is an equitable one and does not concern itself with the character of the defendant's title, but only with whether or not by reason of plaintiff's long inaction or inexcusable neglect, he should be barred from asserting his claim at all, because to allow him to do so would be inequitable and unjust to defendant.[45]

As the appellate court said in discarding the applicability of Art. 1108 of the Civil Code in this case, laches is poles apart from prescription, thus:

“Laches” has been defined as “such neglect or omission to assert a right, taken in conjunction with lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity.” It is a delay in the assertion of a right “which works disadvantage to another” because of the “inequity founded on some change in the condition or relations of the property or parties.” It is based on public policy which, for the peace of society, ordains that relief will be denied to a stale demand which otherwise could be a valid claim. It is different from and applies independently of prescription. While prescription is concerned with the fact of delay, laches is concerned with the effect of delay. Prescription is a matter of time; laches is principally a question of inequity of permitting a claim to be enforced, this inequity being founded on some change in the condition of the property or the relation of the parties. Prescription is statutory; laches is not. Laches applies in equity, whereas prescription applies at law. Prescription is based on a fixed time, laches is not.[46]

The four (4) elements of laches first prescribed by this Court in *Go Chi Gun, et al v. Co Cho, et al*, [47] as subsequently reiterated, [48] are as follows:

(1)

conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made for 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 and 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 on which he bases his suit; and

(4)

injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.

The first element is present. By filing the accion publiciana, petitioners, in effect, restated their intent to recover possession of Lot No. 966, which is currently occupied by respondent. For the second time, they try to assert ownership of the property by virtue of TCT No. T-81513 which had been issued in their names sometime in 1976.

The second element is three-tiered. There must be: (a) knowledge of defendant's action; (b) opportunity to sue defendant after obtaining such knowledge; and (c) delay in the filing of such suit.[49]

In the instant case, petitioners' long inaction or passivity in asserting their rights over Lot No. 966 despite adequate knowledge of respondent's adverse possession and sufficient opportunity to contest the same inevitably precludes them from recovering the property. Their failure to take concrete action against respondent's possession of Lot No. 966 in a span of more than thirty (30) years militates against their claim of ownership.

Extant in the records are pieces of evidence that speak for themselves.

In his testimony, petitioner Emiliano Tirona III bared that neither he nor his siblings who are in the Philippines have changed their residence in Cavite while those in the U.S.A. come home to visit the family once in a while.[50] This fact notwithstanding, Emiliano affirmed that since 1975 up to the filing of the accion publiciana in October 1995, they had done nothing by way of instituting any complaint or action against respondent.[51]

Emiliano's sister and one of the petitioners, Cristina Dacanay, was more straightforward to admit that the last time she saw and talked to Atty. Cortez was in 1973[52] and that not one of her ten siblings followed up the appealed case.[53] Aptly quoted by the trial court is Cristina's disclosure during cross-examination:

ATTY. ESGUERRA:

Q:

It is your testimony Mrs. Dacanay that your lawyer or your former lawyer or the counsel who represented you in this particular case, the first case on the recovery of possession that [started] with the Municipal Trial Court of Kawit, Cavite did not inform you accordingly of the development of the case?

A:

That is correct, and I got (sic) lost contact, sir.

Q:

Of course am I correct in saying that since you filed a case you and your co-heirs, your co-plaintiffs then and your co-plaintiffs now are very much interested to recover the property?

A:

Yes, sir.

Q:

When was the last time when you said you lost contact with this lawyer of yours Antonio Cortes[?] When was the last time you saw him or talked to him even about this case that you were talking about?

A:

During the case[,] [A]fter that[,] no more, sir.

Q:

When was this, what year?

A:

1973 when this case was brought to the Municipal Trial Court of Kawit, sir.

Q:

Of course you testified on that case, am I right, did you?

A:

I forgot already but maybe, sir.

ATTY. ESGUERRA:

Maybe you do not know.

Q:

And, then according to you[,] you won?

A:

Yes, sir.

Q:

So Atty. Cortes[,] correct me if I am wrong Mrs. Dacanay[,] must have told you that you won that case around that time?

A:

Yes, sir.

Q:

And, according in (sic) your direct examination[,] you also told the Court that it was your impression that the case was appealed to [the] then CFI or the Court of First Instance of Cavite City[,] now Regional Trial Court?

A:

I think it was the right procedure if you lost you appealed (sic), sir.

Q:

So, of course[,] the appealed (sic) was made by the defendant Cirilo Encarnacion?

A:

Yes, sir.

Q:

And, you also know about that appeal made by Cirilo Encarnacion?

A:

To the then CFI, Cavite City, yes, sir.

Q:

You must have been informed by Atty. Cortes of that appealed (sic) by Cirilo Encarnacion?

A:

Maybe but he forgot already sir.

Q:

Now, so it is your testimony Mrs. Dacanay that was the last you heard of Atty. Cortes[,] correct me if I am wrong?

A:

Yes, sir.

Q:

After you were informed that the case was brought to the Court of Appeals to the CFI Cavite City by Cirilo Encarnacion?

A:

Yes, sir.

Q:

And that was around what year[?] 1973?

A:

Maybe 1973 something like that, sir.

Q:

How many siblings[,] meaning[,] how many brothers and sisters do you have?

A:

Eleven, sir.

Q:

Some of them including you were actually residing here in the Philippines, some are actually migrant or immigrant of the U.S.?

A:

Yes, sir.

Q:

It is your testimony that not one of these eleven of your brothers and sisters of yours ever followed up the matters with Atty. Cortes?

A:

I don't think so, sir.[54]

It appears that Bartola became an immigrant of the United States in the 1970s but she was in the Philippines since December 1996. Prior thereto, she had been in Honolulu since 1990 after living with her daughter in Pampanga for three years. Before said period, she also stayed in California. Both Fernando and Manuel M. Tirona have been U.S. immigrants since 1958 while their sisters, Martina T. Arnan, Gloria T. Libang, Ma. Luisa T. Onas and Cristina T. Dacanay have been U.S. immigrants since 1978, 1980, 1986, and 1988, respectively. In 1997, Leonor M. Tirona and Alfredo M. Tirona were also in the Philippines with Cristina but the former was with the U.S. Air Force since 1975 while the latter is a U.S. immigrant since 1974. Finally, Ramon M. Tirona worked in the Philippine Embassy in Korea since 1978.[55]

From the foregoing, it can be inferred that not all of petitioners were totally unavailable to pursue their right to assert ownership over Lot No. 966. Even if such was the case, a simple special power of attorney would have easily solved their dilemma. In fact, Emiliano himself did not even allege that he is also a U.S. immigrant or had not been staying in the Philippines.

On the other hand, we give credence to respondent's representations that after the decision of the Court of Appeals in the ejectment case became final and until the accion publiciana was filed in 1995, none of the petitioners communicated with him and claimed possession and ownership of the "Kataasan";[56] and that none of the petitioners also approached him to show TCT No. 81513 upon its issuance in their names in 1976.[57]

Respondent's witnesses amply supported his contention of uninterrupted possession over Lot No. 966. Leona O. Ayson, a salt bed worker at respondent's fishpond and wife of Isaias Ayson and daughter-in-law of Raymundo Ayson (who were former workers of respondent in the "Kataasan"), testified that the "Kataasan" was sold to respondent by Teodoro because when they were giving the harvest of the property to the latter he (Teodoro) personally told them to give it to respondent as the new owner.[58] Ricardo J. Esguerra, the Barangay Captain of Sta. Isabel, Kawit, Cavite, and who has known respondent for fifty years, affirmed that respondent is the owner of the "Kataasan" since he (respondent) is the one negotiating for the improvement of the Lot and giving wages to the workers.[59] Both of them have not heard of anyone who owns the "Kataasan" or has introduced himself as or claimed to be its owner.[60]

More telling, however, was the testimony of Conrado Bagnas, one of the workers at respondent's fishpond. He narrated that the first tenant of the fishpond was his father and that he took over from him in 1970. In 1971, he was instructed by respondent to widen and excavate half of the "Kataasan" for the extension of the fishpond.[61] According to Bagnas, no one prevented him from excavating the "Kataasan" while it was being converted into a fishpond.[62] Neither were there any persons, including the Tironas, who approached him and showed a document proving their claim of ownership of Lot No. 966.[63] In fact, Bagnas does not know of any other person aside from respondent who owns the "Kataasan"[64] He categorically stated that respondent is the owner of the fishpond and "Kataasan" since he asked for capital from respondent and that the harvest or proceeds thereof were given to him.[65] Likewise, he affirmed that Ayson was one of the tenants of respondent who had been annually giving the latter about five (5) sacks of corn based on a 50-50 sharing.[66]

The fact that petitioners were able to register TCT No. 81513 in their names did not automatically operate to vest upon them ownership of the land in this case. In *Heirs of Teodoro Dela Cruz v. Court of Appeals*,[67] we held:

x x x The fact that the Madrids were able to secure TCT No. 167250, and Marquez, TCT Nos. 167220 and 167256, did not operate to vest upon them ownership of the property. The Torrens system does not create or vest title. It has never been recognized as a mode of acquiring ownership, especially considering the fact that

both the Madrids and Marquezes obtained their respective TCT's only in October 1986, twenty-seven long (27) years after petitioners first took possession of the land. If the Madrids and Marquezes wished to assert their ownership, they should have filed a judicial action for recovery of possession and not merely to have the land registered under their respective names. For as earlier mentioned, Certificates of Title do not establish ownership.(Citations omitted)

To be sure, a Torrens title has never been recognized as a mode of acquiring ownership, especially so that petitioners obtained their title over Lot No. 966 only in March 1976, or about seventeen (17) years after respondent took possession of the land. If they really yearned to assert their ownership, petitioners should have taken a more appropriate affirmative action, not merely registering the Lot in their names but promptly taking judicial action to recover its possession. To stress, a certificate of title does not, by itself, establish indubitable ownership.

In *Mejia de Lucas v. Gamponia*,^[68] the rationale for the doctrine of laches was laid down in this wise:

“The reason upon which the rule is based is not alone the lapse of time during which the neglect to enforce the right has existed, but the changes of condition which may have arisen during the period in which there has been neglect. In other words, where a court of equity finds that the position of the parties has to change that equitable relief cannot be afforded without doing injustice, or that the intervening rights of third persons may be destroyed or seriously impaired, it will not exert its equitable powers in order to save one from the consequences of his own neglect.” x x x

In effect, the principle is one of estoppel because it prevents people who have slept on their rights from prejudicing the rights of third parties who have placed reliance on the inaction of the original patentee and his successors-in-interest.^[69]

There is no doubt that respondent will suffer if petitioners are allowed to recover Lot No. 966. Respondent had already developed and invested a lot in it for more than thirty (30) years now. We cannot sanction the petitioners' stale demand and act of resurrecting all over again an issue that had been already settled by the passage of time and equity of the case.

WHEREFORE, the instant petition is DENIED for lack of merit. The November 28, 2003 Decision of the Court of Appeals is hereby AFFIRMED. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Penned by Associate Justice Elvi John S. Asuncion, with Associate Justices Renato C. Dacudao and Lucas P. Bersamin, concurring; rollo, pp. 42-47.

[2] Penned by Judge Cesar A. Mangrobang; records, pp. 424-432.

[3] Exhibits “2” and “2-a,” id. at 181-182.

[4] Records, p. 181.

[5] Exhibits “4” and “4-a,” id. at 184-185.

[6] TSN, June 4, 1998, pp. 28-29, 42

[7] Exhibits “3” and “3-d,” records, pp. 300-301.

- [8] Records, p. 300.
- [9] Rollo, p. 43.
- [10] TSN, October 7, 1997, pp. 60-61.
- [11] Id. at 17, 26.
- [12] Id. at. 25-27.
- [13] Id. at 56.
- [14] Exhibit “6,” records pp. 302-310.
- [15] Records pp. 303-305.
- [16] Id. at. 308-309.
- [17] Id. at 37-43.
- [18] Id. at 44-46.
- [19] Id. at 50.
- [20] Id. at 192.
- [21] TSN, June 4, 1998, pp. 47-48.
- [22] Exhibit “1,” records p. 175.
- [23] Records, pp. 26-27.
- [24] Id. at 1-4.
- [25] Id. at 3-4.
- [26] Id. at 14-19.
- [27] Id. at 24-34.
- [28] Id. at 53-62.
- [29] Id. at 76-85.
- [30] Id. at 120.
- [31] Id. at 147-152.
- [32] Id. at 413.
- [33] Id. at 432.
- [34] Id. at 424-432.
- [35] CA rollo, p. 50.
- [36] Rollo, p. 47.
- [37] CA rollo, pp. 146-151.
- [38] Article 1108 of the Civil Code states:

Art. 1108. Prescription, both acquisitive and extinctive, runs against xxx

(3) Persons living abroad, who have managers or administrators xxx

[39] CA rollo, pp. 152-154, 175.

[40] Ontimare, Jr. v. Spouses Elep, G.R. No. 159224, January 20, 2006, 479 SCRA 257, 264-265.

[41] Pascual v. Fajardo, G.R. No. 146721, September 15, 2006; Valdez v. Reyes, G.R. 152251, August 17, 2006, 499 SCRA 212, 215; and Ontimare, Jr. v. Spouses Elep, supra.

[42] Pascual v. Fajardo, supra and Valdez v. Reyes, supra.

[43] Ontimare, Jr. v. Spouses Elep, supra, at 265.

[44] Heirs of Dicman v. Cariño, G.R. No. 146459, June 8, 2006, 490 SCRA 240, 268; Heirs of Juan and Ines Panganiban v. Dayrit, G.R. No. 151235, July 28, 2005, 464 SCRA 370, 379-380; Heirs of Teodoro Dela Cruz v. Court of Appeals, 358 Phil. 652, 661 (1998); Catholic Bishop of Balanga v. Court of Appeals, 332 Phil. 206, 225 (1996); and Victoriano v. Court of Appeals, G.R. No. 87550, February 11, 1991, 194 SCRA 19, 24.

[45] Heirs of Juan and Ines Panganiban v. Dayrit, supra, at 379. See also Heirs of Dicman v. Cariño, supra; Isabela Colleges, Inc. v. The Heirs of Tolentino-Rivera, 397 Phil. 955, 969 (2000); and Catholic Bishop of Balanga v. Court of Appeals, supra, at 218-219.

[46] Heirs of Juan and Ines Panganiban v. Dayrit, supra, at 381-382. See also Heirs of Dicman v. Cariño, supra.

[47] 96 Phil. 622, 637 (1954), citing 19 Am. Jur. 343-344.

[48] Heirs of Dicman v. Cariño, supra note 44, at 269; Heirs of Juan and Ines Panganiban v. Dayrit, supra note 44, at 382; Villegas v. Court of Appeals, 403 Phil. 791, 801 (2001); Catholic Bishop of Balanga v. Court of Appeals, supra note 44, at 220; Claverias v. Quingco, G.R. No. 77744, March 6, 1992, 207 SCRA 66, 83; and Miguel v. Catalino, 135 Phil. 229, 235 (1968).

[49] Bogo- Medellin Milling Co., Inc. vs. Court of Appeals, 455 Phil. 285, 302, citing Catholic Bishop of Balanga v. Court of Appeals, supra note 44.

[50] TSN, July 10, 1997, pp. 48-49.

[51] Id. at 51.

[52] TSN, October 7, 1997, pp. 46-47.

[53] Id. at 50-51.

[54] Id. at 45-51

[55] TSN, July 10, 1997, pp. 25-30, 54-60.

[56] TSN, July 9, 1998, pp. 8-10.

[57] TSN, July 22, 1998, p. 32.

[58] TSN, December 17, 1998, pp. 9-10, 17-18.

[59] TSN, January 14, 1999, p.10.

[60] TSN, December 17, 1998, p. 12; TSN, January 14, 1999, pp. 10b-10c.

[61] TSN, February 19, 1999, pp. 5-8, 15, 30-31.

[62] Id. at 12.

[63] Id. at 11-12, 39-40.

[64] Id. at 11.

[65] Id. at 11, 14, 38, 40-41.

[66] Id. at 33-37.

[67] Supra note 44, at 660-661..

[68] 100 Phil. 277 (1956).

[69] Id. at 277, 282-283 (1956).

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