SPOUSES ANITA AND HONORIO AGUIRRE, PETITIONERS, VS. HEIRS OF LUCAS VILLANUEVA, NAMELY: JOSE T. VILLANUEVA, PABLO T. VILLANUEVA, PEDRO T. VILLANUEVA, RODOLFO T. VILLANUEVA, DELIA...

G.R. No. 169898. June 08, 2007

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In our decision dated October 27, 2006, we awarded the controverted 140 sq. m. lot to petitioners holding that the latter acquired the same by acquisitive prescription because petitioner Anita Aguirre possessed said land for at least ten years, in good faith, and with just title. Also, we declared that respondents' action for reconveyance is barred by laches as it was filed only after 16 years.

Respondents filed a motion for reconsideration alleging that the Court erroneously applied the law on prescription. They claimed that petitioners may not be considered as possessors in good faith and with just title, hence, acquisitive prescription can only be extraordinary in character which requires uninterrupted adverse possession for 30 years. Respondents also allege that the Court erred in holding that their action for annulment or declaration of nullity of deed of exchange, tax declarations and recovery of ownership and possession with damages, is barred by laches.

The motion for reconsideration is denied for the following reasons:

(1) Respondents' action for reconveyance, based on the fraudulent inclusion of the subject land in the Deed of Exchange, is barred by extinctive prescription. Article 1456 of the Civil Code provides that a person acquiring property through fraud becomes by operation of law a trustee of an implied trust for the benefit of the real owner of the property who may thus file an action for reconveyance. To determine when the prescriptive period commenced in an action for reconveyance, the plaintiff's possession of the disputed property is material. An action for reconveyance based on an implied trust prescribes in ten years. The reference point of the ten-year prescriptive period is the date of the registration of the deed or the issuance of the title. The prescriptive period applies only if there is an actual need to reconvey the property as when the plaintiff is not in possession of the property. However, if the plaintiff, as the real owner of the property also remains in possession of the property, the prescriptive period to recover title and possession of the property does not run against him. In such a case, an action for reconveyance, if nonetheless filed, would be in the nature of a suit for quieting of title, an action that is imprescriptible.[1]

In the instant case, respondents are not in possession of the property. The fraudulent Deed of Exchange dated December 31, 1971 was recorded with the Registry of Deeds on June 13, 1973.[2] The instant case filed in 1999 (or even the case filed in 1997 which was dismissed for lack of jurisdiction), is therefore way beyond the ten year prescriptive period. Even if we reckon the 10 year prescriptive period from 1981, when respondents became aware that petitioner Anita Aguirre caused fences to be put up on the litigated lot, the instant case is still barred by

the ten year prescriptive period.

(2) Respondents were not able to prove that they and their predecessors-in-interest possessed the subject lot in the concept of an owner. They did not actually occupy the land, and except for gathering the produce of 2 fruit bearing trees on the land, no other act of ownership was established by them. Their predecessors-in-interest's alleged act of giving permission to Magdalena Tupas to occupy the land, could not be safely relied upon as an exercise of ownership especially so when there is a contrary testimony that such permission was in fact given by the Tirols (petitioner's predecessors) and not by respondents' predecessors-in-interest. Thus, while petitioners may not really be in good faith (because they did not exercise reasonable diligence to ascertain (1) who gave permission to Magdalena to occupy the land; and (2) why the tax declaration of the land was in the name of Trinidad Tirol and not in the name of Ciriaco Tirol, from whom the parents of petitioner Anita Aguirre acquired the property), equity dictates that the lot be awarded to them (petitioners) considering their 26 year possession of the same lot from the execution of the deed in 1971, up to the time respondents filed the complaint in 1997.

ACCORDINGLY, the instant motion for reconsideration is DENIED with FINALITY.

SO ORDERED.

Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

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[1] Alfredo v. Borras, G.R. No. 144225, June 17, 2003, 404 SCRA 145, 163-164, 166.

[2] Rollo, p. 79.

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