

HEIRS OF MARCELINA ARZADON-CRISOLOGO, REPRESENTED BY LETICIA C. DEL ROSARIO, MAURICIA ARZADON AND BERNARDO ARZADON, PETITIONERS, VS. AGRIFINA RAÑON, SUBSTITUTED BY SUZIMA RAÑON-...

G.R. No. 171068. September 05, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a Petition for Certiorari under Rule 45 of the Rules of Court of the Decision[1] and Resolution[2] of the Court of Appeals in CA-G.R. SP No. 72552, dated 10 November 2005 and 12 January 2006, respectively, which affirmed in toto the Decision[3] dated 8 August 2002 of the Regional Trial Court (RTC) of Batac, Ilocos Norte, Branch 18, in Civil Case No. 3875-18. The RTC reversed the 11 December 2001 Decision[4] of the Municipal Circuit Trial Court (MCTC) of Badoc-Pinili, Badoc, Ilocos Norte, in Civil Case No. 141-B.

Records show that on 18 October 1995, Agrifina Rañon[5] filed a Complaint[6] against spouses Conrado and Mila Montemayor (spouses Montemayor) with the MCTC of Badoc, Ilocos Norte, claiming ownership over an unregistered residential lot (subject property) situated at Brgy. No. 2 Badoc, Ilocos Norte, covered by Tax Declaration No. 420809, more particularly described as follows:

“RESIDENTIAL with an area of 472 sq. ms. (sic) Bounded on the North by Ladera St.; on the East by Dionisio Ladera; on the South by Buenaventura Arzadon; and on the West by Rafael Ladera; Assessed at P1700.00 under Tax Dec. No. 420809.”[7]

According to Agrifina Rañon, her family had enjoyed continuous, peaceful and uninterrupted possession and ownership over the subject property since 1962, and had religiously paid the taxes thereon. They had built a house on the subject property where she and her family had resided. Unfortunately, in 1986, when her family was already residing in Metro Manila, fire razed and destroyed the said house. Nonetheless, they continued to visit the subject property, as well as pay the real estate taxes thereon. However, in August of 1986, her daughter, Zosie Rañon, discovered that the subject property was already in the name of the spouses Montemayor under Tax Declaration No. 0010563 which was purportedly issued in their favor by virtue of an Affidavit of Ownership and Possession which the spouses Montemayor executed themselves. The Affidavit was alleged to have created a cloud of doubt over Rañon’s title and ownership over the subject property.

Hence, Agrifina Rañon sought a Writ of Preliminary Injunction[8] against the spouses Montemayor commanding them to cease and desist from further exercising any right of ownership or possession over the subject property. She further prayed that she be finally declared the true and lawful owner of the subject property.

The spouses Montemayor, for their part, alleged that they acquired the subject lot by purchase from Leticia del Rosario and Bernardo Arzadon who are the heirs of its previous owners for a consideration of P100,000.00.[9]

On 22 July 1996, the Heirs of Marcelina Arzadon-Crisologo, (represented by Leticia A. Crisologo del Rosario),

Mauricia Arzadon, and Bernardo Arzadon (petitioners) filed an Answer in Intervention[10] claiming, inter alia, that they are the rightful owners of the subject property, having acquired the same from their predecessors-in-interest. They averred that there existed no liens or encumbrances on the subject property in favor of Agrifina Rañon; and that no person, other than they and the spouses Montemayor, has an interest in the property as owner or otherwise.

Per petitioners' allegations, their predecessors-in-interest, spouses Timoteo and Modesta Alcantara (spouses Alcantara) bought the subject property from its owner, Rafael Ladera, on 2 May 1936. The spouses Alcantara then built a house of strong materials on the subject property which served as their conjugal home. Residing with them was Timoteo Alcantara's sister, Augustina Alcantara-Arzadon. As the spouses Alcantara died without issue, their properties were left to Timoteo Alcantara's nearest of kin, Augustina Alcantara-Arzadon and Tiburcio Alcantara, sister and brother, respectively, of Timoteo Alcantara. Tiburcio Alcantara also died without any known heir; thus, leaving the subject property in Augustina Alcantara-Arzadon's sole favor. Augustina Alcantara-Arzadon is the mother of petitioners Marcelina Arzadon-Crisologo (now deceased and whose heirs are represented by Leticia del Rosario) and Mauricia Arzadon. Bernardo Arzadon is the son of Mauricia Arzadon.

Petitioners asseverated further that Bernardo Arzadon had lived in the house constructed on the subject property until 1985 when it was gutted by fire. To further support their claims, petitioners averred that they had religiously paid the real estate taxes on the subject property. Finally, by way of a counterclaim, petitioners sought compensation for the damages which they allegedly suffered by reason of the baseless filing of the instant suit.

On 22 October 1999, the MCTC issued an Order[11] dropping the name of the spouses Montemayor from the caption of the case on the ground that sometime in 1996, Leticia del Rosario and Bernardo Arzadon had repurchased the subject property from the spouses Montemayor for the consideration of P100,000.00. As a result, the spouses Montemayor had no more interest or claim whatsoever on the property in litigation.

On 11 December 2001, the MCTC rendered a Decision in favor of the petitioners. The decretal portion thereof reads, thus:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered:

- Declaring the [petitioners] to be the true and lawful owners of one-half (1/2) portion of the undivided whole of the lot-in-suit by mode of succession pursuant to [A]rticle 1001 of the [C]ivil [C]ode of the Philippines;
- Declaring the [petitioners] to have the better right over the other half of the undivided whole of the lot-in-suit by mode of prescription pursuant to [A]rticle 1137 of the Civil Code of the Philippines;
- Dismissing the counter-claim of the [petitioners] against the [respondents];
- Ordering [petitioners] to pay the cost of the suit.[12]

First, the MCTC ruled that while the adverse claims of Agrifina Rañon on the subject lot against the spouses Alcantara may have started in 1962, this adverse possession was interrupted in the year 1977 due to the filing of an adverse claim by petitioner Marcelina Arzadon-Crisologo with the Office of the Assessor. In 1977, the tax declaration in the name of Valentin Rañon, Agrifina Rañon's husband, was cancelled and a new tax declaration was issued in Marcelina Arzadon-Crisologo's name. The MCTC said that the period of possession of the spouses Rañon in the concept of an owner from 1962 to 1977 did not ripen into ownership because their occupation was in bad faith. The Civil Code requires, for acquisitive prescription of real property, 30 years of uninterrupted possession if the same is wanting in good faith and without a just title.

Second, the MCTC held that by virtue of succession, petitioners are entitled to one-half of the subject property.

This is because according to Article 1001[13] of the Civil Code, should brothers and sisters or their children survive with the widow or the widower (who are without issue), the latter shall be entitled to one-half of the inheritance and the brothers and sisters or their children to the other half. The spouses Alcantara died without issue. As between Timoteo Alcantara and Modesta Alcantara, the former predeceased the latter. Timoteo Alcantara was survived by (1) his brother Tiburcio Alcantara, who also died without any known heir; and (2) his sister Augustina Alcantara. Thus, following the death of the spouses Alcantara, only the children of Augustina Alcantara, namely Marcelina Arzadon-Crisologo and Mauricia Arzadon, stand to inherit Timoteo Alcantara's share in the subject property.

Moreover, the MCTC declared that for the part of Modesta Alcantara, there was no legal heir who claimed the other half of the property which she[14] inherited from her husband, Timoteo Alcantara who predeceased her. On this portion, the MCTC held that petitioners exercised rights of ownership and dominion over the same by periodically visiting the lot and cleaning it.[15] It also held that from 31 August 1977, when petitioners' predecessor-in-interest Marcelina Arzadon-Crisologo filed an adverse claim for herself and for her brothers and sisters which led to the issuance of Tax Declaration No. 44120 in her name, to 11 December 2001,[16] there is a total of 33 years, three months and 10 days which is sufficient to claim ownership over the subject property by adverse possession under Article 1137[17] of the Civil Code.

On appeal, the RTC reversed and set aside the Decision of the MCTC.

The RTC declared that the respondent Rañons who are heirs of the original plaintiff had acquired the subject property by virtue of acquisitive prescription, and therefore adjudged respondents to be the absolute owners thereof; thus, in the 8 August 2002 Decision of the RTC, it held:

WHEREFORE, in view of the foregoing, the Decision of the trial [c]ourt is hereby REVERSED and SET ASIDE, and judgment is hereby rendered:

1) Declaring the [respondents] as the absolute owners of the parcel of land in suit, having acquired the same through extraordinary acquisitive prescription.

No costs.[18]

In its findings, the RTC declared that a more circumspect scrutiny of the evidence showed that for a long time from the death of the spouses Alcantara, no one adjudicated the subject property unto themselves. Although petitioners and their predecessors-in-interest claimed to have successional rights over the subject property, they did not take action to have the same adjudicated to themselves or, at least, to have the same declared for taxation purposes. The RTC ruled that petitioners had slept on their rights. On the part of the respondent Rañons, in 1962, Valentin Rañon, respondents' father, declared the subject property in his name for taxation purposes and paid the corresponding taxes thereon. In the years that followed, his wife, Agrifina Rañon, declared the same in her name for taxation purposes, as well as paid the real estate taxes on the subject property. In 1977, the latter even mortgaged the subject property with the Philippine National Bank. It was only in 1977 when petitioners' predecessor-in-interest Marcelina Arzadon-Crisologo executed an Adverse Claim and Notice of Ownership and declared the subject property in her name and paid its taxes.

The RTC elucidated in this wise, to wit:

It bears to note that since the death of Timoteo Alcantara until the year 1977, [petitioners], as well as their predecessors-in-interests (sic) had not taken any concrete step in exercising their supposed successional rights over the parcel of land in suit, or at least, the Intervenor should have always [stayed] on their guard or especially vigilant against anyone who would secure a claim to the said parcel of land, more so that Valentin Rañon and plaintiff Agrifina Rañon were then living with them. It is very unfortunate that it was only in 1977

that the Intervenor made known to others of their supposed successional rights over the parcel of land in suit. Relief is denied to a claimant whose right has become stale for a long time, considering that some other persons like [respondents] had wayback (sic) taken the necessary action in claiming the parcel of land in suit. It is the vigilant and not the sleepy that is being assisted by the laws. (*Ledita Burce Jacob v. Court of Appeals*, et al., G.R. No. 92159, July 1, 1993).

It stands to reason, therefore, to hold that because of the claim of the [respondents] to have acquired the parcel of land in suit by acquisitive prescription, the Intervenor who belatedly claimed to be the legal and compulsory heirs of the late Timoteo Alcantara, as ruled by the trial court, had regrettably forfeited their such (sic) successional rights, simply due to their inaction for a long period of time. Hence, contrary to the findings of the trial court, the [petitioners] are not entitled to the one-half (1/2) portion of the parcel of land in suit.[19]

Likewise, the RTC reasoned that the Notice of Adverse Claim executed by petitioners' predecessor-in-interest Marcelina Arzadon-Crisologo against the Rañons in 1977 implied that respondents have been in possession of the subject property. On this matter, the RTC said, viz:

Evidently, the trial court considered by implication that the execution by Marcelina Arzadon Crisologo of said Adverse Claim and Notice of Ownership in 1977 to have interrupted the running of the prescriptive period on the possession by the [respondents] of the parcel of land in suit. It bears to stress on (sic) this point, that the Adverse Claim and Notice of Ownership executed by Marcelina Arzadon Crisologo is nothing but a notice of a claim adverse to the [respondents]. By its nature, its implication is that the [respondents] have been in possession of the parcel of land in suit in some concept. But definitely, said Adverse Claim does not, upon its execution, operate to toll or interrupt the running of the prescriptive period because there is a necessity to determine the validity of the same. And this could only be done by the filing of the necessary action in court such [as] contemplated in the provisions of Article 1123 of the Civil Code. It is only on (sic) such instance that the prescriptive period should be deemed interrupted. And undisputedly, nothing had been done by the Intervenor after the execution of said Adverse Claim by Marcelina Crisologo, except of course as they claimed, and as held by the trial court, they started to possess the parcel of land in suit. Regrettably (sic), however, such possession by the Intervenor of the parcel of land in suit does not benefit them for purposes of prescription.[20]

The RTC also declared that the Rañons have been in possession of the parcel of land in the concept of an owner since 1962. Even as they had gone to live in Manila following the burning of the house on the subject property, they continued to exercise acts of dominion over the same by visiting and looking after the property. The RTC also considered in favor of the respondents, the admission of petitioner Bernardo Arzadon and the petitioners' witnesses that Valentin Rañon and Agrifina Rañon had been staying in the house on the subject lot since 1947, which shows that they had been in possession of the subject property for a period of more than 50 years.

On review before the Court of Appeals, the Decision of the RTC was affirmed in toto.

The Court of Appeals held that when Valentin Rañon executed the affidavit declaring himself to be the true and lawful owner of the subject property in 1962, the same was a repudiation of petitioners' legal title over it. The repudiation, coupled with the payment of realty taxes, was made with the knowledge of petitioners, who failed to act against it. Thus, from 1962 up to the filing of the action in 1995, respondents continued to adversely occupy the property. In the assailed 10 November 2005 Decision of the Court of Appeals, it ruled:

Moreover, respondents' payment of realty taxes made with the knowledge and consent of petitioners and went unchallenged for a number of years, indubitably show their positive claim as owners of the property. While it is true that by themselves tax receipts and declarations of ownership for taxation purposes are not incontrovertible evidence of ownership, they become strong evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property. It is only where payment of taxes is

accompanied by actual possession of the land covered by the tax declaration that such circumstance may be material in supporting a claim of ownership.

Needless to state, from 1962 onwards, prescription begun to run against petitioners and was not in any way interrupted from their mere execution of the Notice of Adverse Claim since the notice of adverse claim cannot take the place of judicial summons which produces the civil interruption provided for under the law. And even if We are to eliminate the question of good faith in determining the prescriptive period, evidence are (sic) still abundant to substantiate respondents' thirty years of possession in the concept of owner commencing from 1962 until 1995 when the complaint below was filed.[21]

Petitioners filed a Motion for Reconsideration thereon which was denied by the Court of Appeals in the following manner, to wit:

After a careful study of the grounds relied upon by petitioners We find no new matters raised to justify a modification much less, a reversal of the Decision sought to be reconsidered. To reiterate, even assuming ex gratia argumenti that petitioner merely tolerated the Rañons (sic) occupancy of the subject property, it must be stressed that the execution in 1962 of Valentin Rañon's Affidavit, the corresponding payment of realty taxes and other acts of dominion which went unchallenged by the petitioners, had effectively severed their alleged juridical relation. Suffice it to state that these acts, taken as a whole, vest upon the Rañons the right to claim ownership over the subject property irrespective of whether the nature of their occupation was rooted from the mere tolerance of the Arzadons or from a bona fide sale between Agrifina Rañon and Rafael Ladera.[22]

Hence, the instant Petition.

The primordial issue in the case at bar is whether the Court of Appeals erred in declaring that respondents had acquired ownership over the subject property through uninterrupted and adverse possession thereof for thirty years, without need of title or of good faith. Petitioners dispute the findings of the Court of Appeals and the RTC in declaring that acquisitive prescription has set in against them and in favor of the respondents. They claim that the evidence does not support respondents' contention that they have been in public, notorious, and uninterrupted possession over the subject property in the concept of an owner since 1962 as alleged in their Complaint. Instead, petitioners rely on the finding of the MCTC that respondents were not able to prove their adverse claim for an uninterrupted period of thirty years.

At this juncture, we take an opportune look at the applicable rules on the acquisition of ownership through prescription.

Prescription is another mode of acquiring ownership and other real rights over immovable property.[23] It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse.[24] Possession is open when it is patent, visible, apparent, notorious and not clandestine.[25] It is continuous when uninterrupted, unbroken and not intermittent or occasional;[26] exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit;[27] and notorious when it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood.[28] The party who asserts ownership by adverse possession must prove the presence of the essential elements of acquisitive prescription.

Article 1117 of the Civil Code is instructive:

Art. 1117. Acquisitive prescription of dominion and other real rights may be ordinary or extraordinary.

Articles 1134 and 1137 of the Civil Code fix the periods of possession,[29] which provide:

Art. 1134. Ownership and other real rights over immovable property are acquired by ordinary prescription

through possession of ten years.

Art. 1137. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith.

From the foregoing, it can be gleaned that acquisitive prescription of real rights may be ordinary or extraordinary.[30] Ordinary acquisitive prescription requires possession of things in good faith and with just title for the time fixed by law; without good faith and just title, acquisitive prescription can only be extraordinary in character.[31] Regarding real or immovable property, ordinary acquisitive prescription requires a period of possession of ten years, while extraordinary acquisitive prescription requires an uninterrupted adverse possession of thirty years.[32]

Were respondents able to sufficiently satisfy the legal requirements to prove prescription?

To recapitulate, respondents traced their claim of ownership from the year 1962 until the filing of their Complaint for Ownership before the MCTC on 18 October 1995. To support their possession, they rely on an Affidavit executed on 19 October 1962 by Valentin Rañon claiming ownership over the subject property by virtue of an alleged sale. The MCTC, the RTC and the Court of Appeals were unanimous in declaring that the execution by Valentin Rañon of the Affidavit in 1962 was an express repudiation of petitioners' claim over the property. By virtue of such Affidavit, respondents were able to cancel Tax Declaration No. 02853 in the name of petitioners' predecessor-in-interest Timoteo Alcantara who was shown to have paid taxes on the subject property in 1950. Hence, in 1962, Tax Declaration No. 033062 was issued in the name of Valentin Rañon. The same was subsequently cancelled by Tax Declaration No. 033106, which was in the name of his wife, Agrifina Rañon. The same was likewise cancelled in 1967 by Tax Declaration No. 420809, similarly under the name of Agrifina Rañon. In 1977, however, petitioners' predecessor-in-interest Marcelina Arzadon-Crisologo filed an Adverse Claim and a Notice of Ownership claiming that the subject property which is not yet registered in the Office of the Register of Deeds of Laoag City is declared under Tax Declaration No. 420809 in the name of Valentin Rañon for taxation purposes only; but that they have been in possession of the said land publicly, peacefully and continuously without any intervention or interruption for more than 15 years.

However, a question must be asked: did the Notice of Adverse Claim filed by petitioners constitute an effective interruption since 1962 of respondents' possession of the subject property?

The answer is in the negative.

Article 1123[33] of the Civil Code is categorical. Civil interruption is produced by judicial summons to the possessor. Moreover, even with the presence of judicial summons, Article 1124[34] sets limitations as to when such summons shall not be deemed to have been issued and shall not give rise to interruption, to wit: 1) if it should be void for lack of legal solemnities; 2) if the plaintiff should desist from the complaint or should allow the proceedings to lapse; or 3) if the possessor should be absolved from the complaint.

Both Article 1123 and Article 1124 of the Civil Code underscore the judicial character of civil interruption. For civil interruption to take place, the possessor must have received judicial summons. None appears in the case at bar. The Notice of Adverse Claim which was filed by petitioners in 1977 is nothing more than a notice of claim which did not effectively interrupt respondents' possession. Such a notice could not have produced civil interruption. We agree in the conclusion of the RTC, which was affirmed by the Court of Appeals, that the execution of the Notice of Adverse Claim in 1977 did not toll or interrupt the running of the prescriptive period because there remains, as yet, a necessity for a judicial determination of its judicial validity. What existed was merely a notice. There was no compliance with Article 1123 of the Civil Code. What is striking is that no action was, in fact, filed by petitioners against respondents. As a consequence, no judicial summons was received by

respondents. As aptly held by the Court of Appeals in its affirmance of the RTC's ruling, the Notice of Adverse Claim cannot take the place of judicial summons which produces the civil interruption provided for under the law.[35] In the instant case, petitioners were not able to interrupt respondents' adverse possession since 1962. The period of acquisitive prescription from 1962 continued to run in respondents' favor despite the Notice of Adverse Claim.

From another angle, we find that, quite clearly, questions of fact exist before us. There is a question of fact when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.[36]

Thus, we find proper the application of the doctrine that findings of facts of the Court of Appeals upholding those of the trial court are binding upon this Court.[37] Even though the rule is subject to exceptions,[38] we do not find them applicable in the instant case.

As found by the RTC and affirmed by the Court of Appeals, nothing was done by petitioners to claim possession over the subject property from the time their predecessors-in-interest had lost possession of the property due to their deaths. Plainly, petitioners slept on their rights. *Vigilantibus sed non dormientibus jura subveniunt*. The law comes to the succor only to aid the vigilant, not those who slumber on their rights. It was only in 1977 when they attempted to call the attention of respondents, which as earlier discussed, did not even operate as an interruption on the latter's possession. The RTC and the Court of Appeals held that from 1962 to the time they filed their Complaint before the MCTC and until the present time, respondents occupied without interruption the subject property in the concept of an owner, thereby acquiring ownership via extraordinary acquisitive prescription. To reiterate, the RTC's factual findings based on the evidence on record were manifestly in favor of respondents, to wit:

Thus, by preponderance of evidence, it has been established preponderantly that the [respondents] have been in possession of the parcel of land in suit continuously, peacefully, publicly, notoriously, uninterrupted and in the concept of an owner since 1962 to the present. The fact that the [respondents] have gone to live in Manila right after the house built in the parcel of land in suit was burned in 1988, they, however, then and thereafter intermittently come to Badoc, Ilocos Norte purposely to look after and to visit the parcel of land in suit. Actual possession of land consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property. One needs (sic) not to (sic) stay on it. The acts exercised by the [respondents] over the parcel of land in suit are consistent with ownership. Possession in the eyes of the law does not mean that a man has to have his feet on every square meter of the ground before it can be said that he is in possession [thereof]. (*Ramos v. Director of Lands*, 39 Phil. 175, cited in the case of *Somodion v. Court of Appeals*, et al., 235 SCRA 307). It is sufficient that the [respondents] were able to subject the parcel of land to the action of their will.

Furthermore, the Court finds it (sic) significant the testimonies of [petitioner] Bernardo Arzadon and his witnesses Leonila Arzadon and Elpidio Evangelista who categorically testified to the effect that Valentin Rañon and [respondent] Agrifina Rañon had been staying in the house standing on the parcel of land in suit since 1947. Basically, the defendants are bound by their admissions and also bound by the testimonies of the witnesses they presented. And going along with their respective testimonies, from 1947 to 1977 or for [a] period of thirty (30) years the [respondents] have been in possession of the parcel of land in suit enough to invoke extraordinary acquisitive prescription, pursuant to the provisions of Article 1134[39] (sic) of the New (sic) Civil Code. However, as earlier stated, the [respondents], contrary to the claim of the [petitioners] and findings of the trial court, have been in possession of the parcel of land in suit continuously and uninterrupted from 1962 to the present but because of the admissions of the [petitioners], the [respondents] have been in

possession of the same from 1947 to the present or for more than fifty (50) years now.[40]

The open, continuous, exclusive and notorious possession by respondents of the subject property for a period of more than 30 years in repudiation of petitioners' ownership had been established. During such length of time, respondents had exercised acts of dominion over the subject property, and paid taxes in their name. Jurisprudence is clear that although tax declarations or realty tax payments of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession.[41] They constitute at least proof that the holder has a claim of title over the property.[42] As is well known, the payment of taxes coupled with actual possession of the land covered by the tax declaration strongly supports a claim of ownership.[43] The Court of Appeals did not err in affirming the factual findings of the RTC that respondents had validly established their claim of ownership over the subject property through acquisitive prescription.

WHEREFORE, the Petition is DENIED. The Decision of the Court of Appeals dated 10 November 2005 and the Resolution dated 12 January 2006 in CA-G.R. SP No. 72552 are AFFIRMED. No costs.

SO ORDERED.

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

[1] Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Delilah Vidallon-Magtolis and Fernanda Lampas Peralta, concurring; rollo, pp. 109-117.

[2] Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Portia Aliño Hormachuelos and Fernanda Lampas-Peralta; id. at 128-129.

[3] Penned by Judge Alejandrino C. Cabebe; id. at 66-75.

[4] Penned by Acting MCTC Judge Iluminada M. Ines; id. at 31-64.

[5] During the course of the trial, on 26 June 1998, Agrifina Rañon died. She was substituted by her sole heirs Othelo Rañon and Zusima Rañon-Duterte as plaintiffs; CA rollo, p. 34.

[6] Designated as a Complaint for Ownership with Prayer for Preliminary Injunction; Id at 16-21.

[7] Id. at 16.

[8] There is no showing on records if the prayer for Writ of Preliminary Injunction was favorably resolved.

[9] CA rollo, p. 31.

[10] Id at 22-25.

[11] Id. at 26.

[12] Id. at 61-62.

[13] 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.

[14] The conclusion was reached on a finding that Timoteo Alcantara predeceased his wife, Modesta Valle Alcantara.

[15] CA rollo, p. 60.

[16] The Decision of the MCTC was dated 11 December 2001.

[17] Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith.

[18] Id. at 78.

[19] Id. at 75.

[20] CA rollo, pp. 76-77.

[21] Rollo, p. 116.

[22] Id. at 128-129.

[23] *Calicdan v. Cendaña*, 466 Phil. 894, 902 (2004).

[24] Id.

[25] *Director of Lands v. Intermediate Appellate Court*, G.R. No. 68946, 22 May 1992, 209 SCRA 214, 224.

[26] Id., citing *Black's Law Dictionary* (Fifth ed.), p. 291.

[27] Id.

[28] Id.

[29] *Lubos v. Galupo*, 424 Phil. 665, 672 (2002).

[30] *Aguirre v. Court of Appeals*, 466 Phil. 32, 43 (2004).

[31] Id.

[32] Id.

[33] Civil interruption is produced by judicial summons to the possessor.

[34] Judicial summons shall be deemed not to have been issued and shall not give rise to interruption:

- If it should be void for lack of legal solemnities;
- If the plaintiff should desist from the complaint or should allow the proceedings to lapse;
- If the possessor should be absolved from the complaint.

In all these cases, the period of the interruption shall be counted for the prescription.

[35] Rollo, p. 116; where the Court of Appeals in its Decision dated 10 November 2005 cited the case of *Ferrer v. Bautista*, G.R. No. 46963, 14 March 1994, 231 SCRA 257, 263.

[36] *Republic of the Philippines v. Sandiganbayan*, 426 Phil. 104, 110 (2002).

[37] *David-Chan v. Court of Appeals*, 335 Phil. 1140, 1148 (1997).

[38] The following are the recognized exceptions, to wit: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is a grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the Court of Appeals is based on 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 of the Court of Appeals are contrary to those of trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record. [See *Reyes v. Court of Appeals*, 328 Phil. 171, 180 (1996); *Siguan v. Lim*, 376 Phil. 840, 849 (1999), citing *Sta. Maria v. Court of Appeals*, 349 Phil. 275, 282-283 (1998).]

[39] Extraordinary prescription is governed by Article 1137.

[40] CA rollo, 77-78.

[41] *Republic of the Philippines v. Court of Appeals*, 328 Phil. 238, 248 (1996).

[42] *Id.*

[43] *Spouses Reyes v. Court of Appeals*, 393 Phil. 493 (2000).

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