

**HEIRS OF SPOUSES CRISPULO FERRER AND ENGRACIA PUHAWAN,
REPRESENTED BY ROMEO F. GAZA AS ATTORNEY-IN-FACT,
PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, NATIONAL
POWER CORPORAT...***G.R. No. 190384. July 05, 2010*

Ponente: BRION, J.

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Petitioners, the heirs of spouses Crispulo Ferrer and Engracia Puhawan, filed a petition for certiorari[1] assailing the rulings[2] of the Court of Appeals (CA) rendered in CA-G.R. CV No. 67923. The Court, acting through its Second Division, denied the certiorari petition through a Resolution dated January 18, 2010,[3] which the petitioners sought to be reconsidered of on March 17, 2010.[4] In a Resolution dated April 21, 2010,[5] the Court denied the petitioners' motion and reiterated the dismissal of the certiorari petition. Petitioners now request leave from the Court to file a second motion for reconsideration.[6]

Brief Background

The present case arose from an injunction suit[7] instituted by the petitioners against respondent National Power Corporation (Napocor). Petitioners sought to enjoin Napocor from selling the Caliraya Hydroelectric Power Plant, as they claimed ownership over portions of the land where the power plant stood, specifically Lot 1873 and Lot 72.[8] Additionally, the petitioners demanded payment of damages from Napocor as rentals for the use and occupation of the lots since 1936 - the year Napocor first occupied the lot and began construction of the power plant.

Napocor denied the petitioners' allegations and claimed it acquired portions of Lot 1873[9] through purchase from the petitioners' half sister, Oliva Ferrer. The sale was evidenced by two deeds dated August 31, 1940[10] and March 4, 1948, both duly notarized and registered under Act No. 3344 (System of Registration for Unregistered Real Estate). As for Lot 72, Napocor claimed that its right to occupy and use the lot stemmed from the Right of Way Agreement executed in its favor by the petitioners' predecessors on April 22, 1940. The encumbrance was annotated on the title covering Lot 72.[11]

The petitioners opposed Napocor's claims and contended that the sale of portions of Lot 1873 between Napocor and Oliva Ferrer was void. They alleged that Oliva Ferrer was a co-heir who owned, in common with the petitioners, Lot 1873 - a fact clearly indicated in both deeds of sale covering Lot 1873.[12] As a co-heir, Oliva Ferrer inherited only 3,129.93 square meters of Lot 1873,[13] and the sale to Napocor of an area in excess of this amount without authority from the other co-owners was, according to the petitioners, void. To further support their claim of ownership, the petitioners presented a Certification dated January 26, 1978, issued by the Bureau of Lands, stating that Lot 1873 was claimed by and surveyed for Crispulo Ferrer. They also relied on Original Certificate of Title (OCT) Nos. P-3898 and P-3899 issued on September 25, 1977 in the name of Emiliano Ferrer, son of Crispulo Ferrer and Engracia Puhawan and one of the petitioners herein.

On March 15, 2000, the Regional Trial Court (RTC) issued a decision,[14] dismissing the petitioners' action for injunction and damages after finding their claims over Lot 1873 and Lot 72 insufficient.[15]

The trial court ruled that the petitioners failed to present convincing proof of their claim of ownership of Lot 1873; other than the Bureau of Lands certificate, which by itself was not a proof of ownership, the petitioners had nothing to support their claim. In contrast, Napocor was able to present two deeds of sale covering 29,598 square meters of Lot 1873, which were duly notarized and registered under Act No. 3344. The RTC also took cognizance of the fact that Napocor has been in possession of Lot 1873 and constructed numerous structures thereon since 1936. Thus, it found it ridiculous for petitioners or their predecessors not to raise a restraining hand or shout of protest during Napocor's long occupation and use of the lot.[16]

As for Lot 72, the RTC found that the certificate of title covering the lot contained an entry dated May 20, 1940, referring to an instrument dated April 22, 1940, by virtue of which the heirs of Bernabe Puhawan (which included Engracia Puhawan, one of the petitioners' predecessors) granted Napocor a right of way over the lot. The entry was further classified as a waterway, an intake road, and a right of way, making the easement a legal encumbrance under Section 44 of Presidential Decree No. 1529[17] or the Property Registration Decree. In the absence of proof that this has been cancelled, the RTC said that the easement should be respected. Moreover, the RTC also found that Lot 72 had already been acquired by Hilaria and Victoria Puhawan through a deed of extrajudicial partition of Bernabe Puhawan's estate executed on November 3, 1939. Hence, the petitioners, as heirs of Engracia Puhawan, have no legal claim over Lot 72.[18]

The petitioners assailed the RTC decision through a petition for certiorari filed with the CA. The CA found no reason to reverse the trial court's decision and accordingly affirmed it through its decision of May 12, 2009.[19] The CA likewise found unmeritorious the petitioners' motion for reconsideration and denied it through its resolution of October 23, 2009,[20] a copy of which was received by petitioners on November 3, 2009. Thirty-eight days later, on December 11, 2009, the petitioners filed with the Court a petition for certiorari under Rule 65 of the Rules of Court. Rejecting the petitioners' arguments, we denied the petition and denied the subsequent motion for reconsideration in our Resolutions of January 18, 2010 and April 21, 2010, respectively.

Procedurally, the Court found that the petitioners, by resorting to a certiorari petition, erred in choosing the legal remedy against the CA rulings. We noted that the errors the petitioners raised were errors of law rather than errors of jurisdiction, since "[t]he gist of [the] petitioners' objections to the CA ruling was the appellate court's failure to appreciate their arguments and evidence in support of their claims, but this does not amount to an error of jurisdiction. A certiorari writ will not be issued to cure errors by the lower court in its appreciation of the evidence, its conclusions anchored on the said findings, and its conclusions of law. As long as the court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctible by an appeal x x x [by] certiorari filed under Rule 45 [of the Rules of Court]."[21] We considered the resort to a certiorari petition under Rule 65 as a disingenuous move to circumvent the rule on the period for filing an appeal by certiorari under Rule 45 which allows only 15 days from notice of the judgment appealed from to file an appeal. As the petition was filed 38 days after receipt of the assailed CA resolution denying the motion for reconsideration, the petitioners used the certiorari petition as a substitute for the lost appeal, a move the Court has consistently reprobated.

Despite these procedural lapses, the Court nevertheless reviewed the merits of the petitioners' case, but as the RTC and the CA did, found nothing to support the petitioners' claims. In seeking to enjoin Napocor from selling Lot 1873 and to claim damages for the use and occupation thereof, the petitioners relied on their claim of ownership which they contended was sufficiently proved by (1) the certification from the Bureau of Lands showing that their predecessor, Crispulo Ferrer, was a survey claimant, and (2) the OCTs covering the lot in the

name of co-petitioner Emiliano Ferrer. We rejected these claims by ruling that:

The Bureau of Lands Certification] did not adequately establish their right to Lot 1873. All that the Certification proved was that Crispulo Ferrer was a survey claimant. The purpose of a survey plan is simply to identify and delineate the extent of the land. A survey plan, even if approved by the Bureau of Lands, is not a proof of ownership of the land covered by the plan. Even though the OCTs in Emiliano Ferrer's name covering portions of Lot 1873 were never contested, the CA found that the portions of land covered by his certificates of title were not those on which Napocor's power plant stood.[22]

We further ruled that any objection the petitioners might have against the sale of Lot 1873 between Napocor and Oliva Ferrer has already been barred by the principle of laches. We explained:

From 1936 when Napocor began construction of the power plant up to 1997 when the action for injunction and damages was instituted, the petitioners made no move to assert their claim over Lot 1873; for 61 long years, the petitioners have slept on their rights, but now ironically demand vigilance on the Court's part to protect their rights.[23]

As for Lot 72, we declared that:

[T]he CA correctly pointed out that the petitioners never took any issue with the RTC's ruling concerning the parties' rights over [this lot]; the petitioners devoted most of their time discussing their claims over Lot 1873. At any rate, the parties' rights with respect to these lots [this lot] have been carefully considered and resolved by the RTC and CA, and we agree with their findings and conclusions [that Napocor's easement rights over Lot 72 subsists].[24]

Insisting that they have a rightful claim over Lot 1873 and Lot 72, the petitioners now request leave to file a second motion for reconsideration.

Petitioners' Second Motion for Reconsideration

The petitioners insist that they have a better claim than Napocor over Lot 1873 and Lot 72. Believing that they have a strong and meritorious case against Napocor, the petitioners contend that the interest of justice should override the application of procedural rules and the principle of laches.

In support of their claim over Lot 1873, the petitioners reiterate the same allegations and arguments they raised before the RTC and the CA (specifically, the Bureau of Lands certificate in Crispulo Ferrer's name). They also contend that they have acquired ownership over Lot 1873 through prescription, as their predecessors have taken possession of and occupied the lot since 1916. By the time Napocor purportedly purchased the lot from Oliva Ferrer in 1940 and 1948, the petitioners have already acquired ownership over Lot 1873 through extraordinary acquisitive prescription for over 30 years under Article 1137 of the Civil Code.

Additionally, the petitioners challenge the CA's finding that they never raised any objection concerning Lot 72 before the CA. They point to the memorandum they filed before the CA where they alleged that despite the grant of a right of way, Napocor used an area that was more than what was granted to it by the petitioners' predecessors. By alleging this matter, the petitioners claim to have timely raised the issue of whether Napocor should pay damages by way of rentals for the use and occupation of areas of Lot 72 in excess of what was granted to it.

The Court's Ruling

We DENY the requested leave to file a second motion for reconsideration.

Section 3, Rule 15 of the Internal Rules of the Supreme Court (IRSC) sets forth the rule when the Court may entertain a second motion for reconsideration. The rule states:

Sec. 3. Second motion for reconsideration. - The Court shall not entertain a second motion for reconsideration, and any exception to this rule can only be granted in the higher interest of justice by the Court en banc upon a vote of at least two-thirds of its actual membership. There is reconsideration "in the higher interest of justice" when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties. A second motion for reconsideration can only be entertained before the ruling sought to be reconsidered becomes final by operation of law or by the Court's declaration.

In the Division, a vote of three Members shall be required to elevate a second motion for reconsideration to the Court En Banc.

Aside from meeting the voting requirements, a movant is required by the IRSC to substantially show that a reconsideration of the Court's ruling is necessary in the higher interest of justice, which standard is satisfied upon proving that the assailed ruling is both (1) legally erroneous and (2) patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties.

In this case, petitioners' reasons do not sufficiently establish that a reversal of the Court's ruling will serve the higher interest of justice. On the contrary, for the Court to consider and find meritorious the petitioners' argument will mean abandoning settled principles of law to accommodate the petitioners' stale and clearly unsubstantiated claims.

The petitioners insist that the Bureau of Lands certificate, stating that their predecessor Crispulo Ferrer was a survey claimant of the property covered by Cadastral Survey No. 90 of Lumban, Laguna, sufficiently establishes their claim over Lot 1873, despite our consistent ruling that the certificate is no proof of title of ownership over the property.

A survey made in a cadastral proceeding merely identifies each lot preparatory to a judicial proceeding for adjudication of title to any of the lands upon claim of interested parties.[25] The purpose of a survey plan is simply to identify and delineate the extent of the land.[26] It is not a proof of ownership of the land covered by the plan.[27] In the present case, the petitioners were not even able to present the actual survey plan approved by the Bureau of Lands; all that they relied on was the Bureau of Lands certificate that proved nothing more beyond than what was expressly stated therein: that Lot 1873 is in the name of Crispulo Ferrer, as a survey claimant.

Notably, nothing in the certificate indicated whether Crispulo Ferrer was actually in possession of Lot 1873 or for how long he had been in possession thereof. We find the matter and duration of the petitioners and their predecessors' possession relevant in view of the petitioners' contention that they acquired ownership of Lot 1873 through prescription, i.e., the lapse of the requisite 30-year period provided in Article 1137 of the Civil Code. Article 1137 states:

Article 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.

The petitioners' reliance on Article 1137 of the Civil Code is not entirely accurate. The petitioners alleged that Lot 1873 is an alienable and disposable land of the public domain. However, acquisition of ownership over alienable public lands is governed, not by the general provisions on prescription in the Civil Code, but more particularly, by Commonwealth Act No. 141 (CA 141) or the Public Land Act. Article 1137 of the Civil Code authorizes acquisition by prescription only of private lands, not of public lands even though these may have been decreed as alienable and disposable.

Alienable and disposable lands of the public domain may be acquired by private persons, not by virtue of prescription but, through adverse possession, upon compliance with the requirements of Section 48(b) of CA 141,

which states:

Sec. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

x x x x

(b) Those who by themselves or through their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain, under a bona fide claim of acquisition of ownership, since June 12, 1945, or earlier, immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

Verily, it is not the mere lapse of time that vests title over the land to the claimant; it is also necessary that the land be an alienable and disposable land of the public domain and that the claimant be in open, continuous, exclusive, and notorious possession of the land. Listed down, the acquisition through adverse possession of public lands requires the following:

- the land applied for must be an alienable and disposable public land; and
- the claimants, by themselves or through their predecessors-in-interest, have been in open, continuous, exclusive, and notorious possession and occupation of the land since June 12, 1945 or earlier.[28]

Upon an exhaustive review of the records and a thorough evaluation of the petitioners' allegations and arguments, we are unconvinced that the petitioners have satisfied these requirements.

First, no conclusive proof appears in the records showing that Lot 1873 has been officially decreed to be an alienable and disposable public land at the time the petitioners' predecessors supposedly occupied the lot in 1916 or at anytime thereafter. That petitioners' predecessor, Crispulo Ferrer, was a claimant and, purportedly, had a survey plan of Lot 1873 does not necessarily imply that the lot is an alienable land.[29]

Second, we similarly found nothing in the records that would support the petitioners' allegation that their predecessors had occupied Lot 1873 since 1916 or at anytime before the cut-off date of June 12, 1945. As mentioned, the Bureau of Lands certificate, issued on January 26, 1978, simply stated that Crispulo Ferrer was a survey claimant of Lot 1873, without indicating the nature and duration of his possession. The requirement of an open, continuous, exclusive, and notorious occupation of alienable public land must be conclusively established to avoid the erroneous validation of actually fictitious claims of possession over the property.[30]

Even supposing that the petitioners, through their predecessors, have held possession of Lot 1873 since 1916, this condition only works to their disadvantage. As early as 1936, Napocor occupied portions of Lot 1873 and began construction of the power plant. On May 30, 1940,[31] Oliva Ferrer granted Napocor the right of way over the lot. Then, on August 31, 1940 and March 4, 1948, she sold portions of the lot to Napocor. In all of these instances, no word of protest was heard from the petitioners and their predecessors, at least until April 1997, when they demanded payment of rent from Napocor for the use and occupation of Lot 1873. The petitioners' inaction establishes the fact that they were never in open, continuous, exclusive, and notorious possession of Lot 1873. More importantly, the petitioners' inaction from 1936 to 1997, or for 61 long years, makes the application of the principle of laches more than justified to defeat their claim over Lot 1873.

The application of the principle of laches requires the presence of the following elements - all of which are

present in this case:

- (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 and for which the complainant seeks a remedy;
- (2) delay in asserting the complainant's right, the complainant having had knowledge or notice, of 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.[32]

Napocor executed acts that were contrary to the petitioners' asserted claim of ownership over Lot 1873, yet until 1997, the petitioners made no move to vindicate their claimed right and resist Napocor's intrusion. Napocor certainly could not be blamed if it considered itself the true owner of Lot 1873 and expected no adverse claims thereto, as it had acquired the lot by purchase as early as 1940 and had constructed numerous structures thereon. To recognize the petitioners' belated and legally baseless claim over Lot 1873 would mean requiring Napocor to pay rentals and interest from 1936 to the present, a move that could possibly bleed Napocor's coffers dry to the detriment of the public. *Vigilantibus et non dormientibus jura subveniunt* - the laws serve the vigilant, not those who sleep. Quoting the Court's ruling in *Vda. de Rigonan v. Derecho*, our resolution of April 21, 2010 said:

x x x The Court aptly stated in *Miguel v. Catalino*:

Courts cannot look with favor at parties who, by their silence, delay, and inaction, knowingly induce another to spend time, effort, and expense in cultivating the land, paying taxes and making improvements thereon x x x only to spring from ambush and claim title when the possessor's efforts and the rise of land values offer an opportunity to make easy profit at his expense.

To grant respondents relief when they have not even offered any justifiable excuse for their inaction would be unjust. It is certainly beyond our comprehension how they could have remained silent for more than 50 years. They have only themselves to blame if the Court at this late hour can no longer afford them relief against the inequities they allegedly suffered.[33]

The principle of laches applies with equal force to defeat the petitioners' claim over Lot 72 which was occupied by Napocor way back in 1937. Also, we find no reason to disagree with the RTC's finding that Lot 72 had already been adjudicated in favor of, and for which the property was in fact titled in the names of, Hilaria and Victoria Puhawan. As the heirs of Engracia Puhawan, the petitioners likewise have no valid claim over Lot 72.

The essence of the Court's adjudicatory function is to apply the law to facts, as supported by the evidence and the records. The petitioners have already exhausted all possible legal arguments and, as we have discussed, none of which are compelling enough to require reconsideration of our past ruling. To be sure, repetitive filing of legally useless submissions cannot pressure this Court into taking another look at an unmeritorious case; they can only increase the petitioners' legal expenses, as in this case, where we are ordering the payment of double costs for the act of unnecessarily and stubbornly wasting the Court's time.

WHEREFORE, we DENY the petitioners' motion for leave to file a second motion for reconsideration of our April 21, 2010 Resolution. We hereby declare our Resolutions of January 18, 2010 and April 21, 2010 final and executory. No further pleadings shall be entertained. We accordingly direct that entry of judgment be immediately made. Double costs against petitioners.

SO ORDERED.

Carpio Morales (Chairperson), Bersamin, Abad,[*] and Villarama, Jr., JJ. concur.

[*] Designated additional Member of the Third Division effective May 17, 2010, per Special Order No. 843 dated May 17, 2010.

[1] Under Rule 65 of the Rules of Court; rollo, pp. 3-25.

[2] Referring to the CA decision dated May 12, 2009 (id. at 30-46) and the resolution dated October 23, 2009 (id. at 89-91); penned by Associate Justice Rosalinda Asuncion-Vicente, and concurred in by Associate Justice Portia Alino-Hormachuelos and Associate Justice Myrna Dimaranan Vidal.

[3] Id. at 179-180.

[4] Id. at 181-191.

[5] Id. at 214-224.

[6] Id. at 226-236.

[7] Civil Case No. SC-3604; id. at 92-97.

[8] The petitioners were also claiming ownership rights over a third lot, Lot 90. Napocor admitted occupying portions of Lot 90, in excess of the areas it purchased. Thus, the RTC ordered Napocor to pay the reasonable value of the excess areas occupied by it, determined after a survey of Lot 90. Both parties did not contest the RTC's ruling insofar as Lot 90 was concerned; id. at 124.

[9] Lot 1873 has a total land area of 50,079 square meters; Napocor bought 29,598 square meters. Id. at 93.

[10] Id. at 208-210.

[11] Id. at 123.

[12] Id. at 208.

[13] Crispulo Ferrer left behind eight heirs who, the petitioners claimed, were each entitled to inherit 3,129.93 square meters of Lot 1873; id. at 9-10.

[14] Penned by Judge Leonardo L. Leonida; id. at 117-124.

[15] The dispositive portion of the RTC's decision of March 15, 2000 read:

WHEREFORE, premises considered, judgment is hereby rendered:

- Denying the petition for preliminary injunction;
- Dismissing the action for damages;
- Ordering the defendants to pay the plaintiffs the reasonable value of the excess area occupied by [Napocor] in lot 90[,] estimated to be [438] square meters or such excess area as may be determined through a survey of lot 90.

SO ORDERED. Id. at 124.

[16] Id. at 122.

[17] Sec. 44 - Every registered owner receiving a certificate of title in pursuance of a decree of registration, and

every subsequent purchaser of registered land taking a certificate of title for value and in good faith, shall hold the same free from all encumbrances except those noted on said certificate and any of the following encumbrances which may be subsisting, namely:

x x x

Third. Any public highway or private way established or recognized by law[.]

[18] Rollo, p. 123.

[19] Supra note 2.

[20] Ibid.

[21] Rollo, pp. 219-220.

[22] Id. at 221.

[23] Id. at 222.

[24] Id. at 223.

[25] Republic v. Intermediate Appellate Court, 239 Phil. 393, 402 (1987).

[26] Director of Lands v. Reyes, 160A Phil. 832 (1975).

[27] See Gimeno v. CA, 170 Phil. 645 (1977); Heirs of Marina Regalado v. Republic, G.R. No. 168155, February 15, 2007, 516 SCRA 38.

[28] Republic v. Divinaflor, 402 Phil. 498, 507-508 (2001), citing Republic v. CA, 235 SCRA 567 (1994).

[29] Republic v. CA, 238 Phil. 429 (1987).

[30] San Miguel Corporation v. CA, G.R. No. L-49903, February 21, 1983, 120 SCRA 734, 735.

[31] Rollo, p. 120.

[32] Claverias v. Quingco, G.R. No. 77744, March 6, 1992, 207 SCRA 66, 83.

[33] 502 Phil. 202, 229-230 (2005).

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