

**CONSUELO V. PANGASINAN AND ANNABELLA V. BORROMELO,
PETITIONERS, VS. CRISTINA DISONGLO-ALMAZORA, RENILDA
ALMAZORA-CASUBUAN, RODOLFO CASUBUAN, SUSANA
ALMOZORA-MENDIOLA, CARLOS MEND...**

G.R. No. 200558. July 01, 2015

Ponente: MENDOZA, J.

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MENDOZA, J.:

The present case demonstrates the legal principle that the law aids the vigilant, not those who slumber on their rights. *Vigilantibus, sed non dormientibus jura subverniant.*

This is a petition for review on certiorari seeking to reverse and set aside the July 28, 2011 Decision[1] and the February 3, 2012 Resolution[2] of the Court of Appeals (CA), in CA-G.R. CV 84529, which affirmed the June 29, 2004 Decision[3] of the Regional Trial Court, Branch 259, Paranaque City (RTC) in Civil Case No. 96-0206, a case for damages.

The Facts

The subject property is a parcel of land with an area of 572 square meters located in Brgy. Sto. Domingo, Binan, Laguna. It was registered in the name of Aquilina Martinez (Aquilina) under Transfer Certificate of Title (TCT) No. T-18729 by the Register of Deeds of Laguna on July 29, 1939.[4]

After the liberation of Manila from the Japanese military occupation in 1945, Aquilina and her maternal grandmother, Leoncia Almendral (Leoncia), learned that their house on Zabala Street, Tondo, Manila, was ruined by the war. To rebuild their house, they borrowed money from their relative, Conrado Almazora (Conrado). Thus, their house was reconstructed. In return, Leoncia entrusted to Conrado the owner's duplicate copy of TCT No. T-18729 covering the subject property in Binan, Laguna. Consequently, Conrado and his family remained in the said property.

Following the death of Aquilina on July 19, 1949, the title of the subject property was transferred to Aurora Morales-Vivar (Aurora), as her sole heir. Accordingly, TCT No. T-35280 was issued in the name of Aurora[5] after TCT No. T-18729 was cancelled. On February 7, 1972, Conrado passed away.

Sometime in 1994, Aurora learned from Cristina Almazora (Cristina), the widowed spouse of Conrado, that the title of the subject property had long been transferred in the name of Conrado and that the subject property had been sold to Fullway Development Corporation (Fullway) by the heirs of Conrado in consideration of P4,000,000.00.[6]

Aurora was shocked to learn that the subject property was already transferred to Conrado and sold for a meager amount. On October 30, 1995, she sent a letter to the heirs of Conrado demanding the delivery of the payment they received for the sale of the subject property; but it was unheeded.

On May 9, 1996, Aurora together with her husband, Arturo, filed a complaint for damages[7] against Cristina and the other heirs of Conrado (respondents) before the RTC. They contended that the owner's duplicate copy of TCT No. T-18729 was only given to Conrado for safekeeping. The complaint, however, admitted that the family of Conrado had been staying on, and using, the subject property since 1912 with the permission and generosity of Aquilina and Leoncia.[8]

Aurora asserted that, through the years, she repeatedly asked Conrado to return the owner's copy of the title but the latter procrastinated, giving all kinds of excuses, until he died in 1972; that thereafter, Aurora asked Cristina for the copy of the title but the latter also ignored her request; that the subsequent sale of the subject property to Fullway was without Aurora's authorization, and, thus, the payment received by respondents for the sale of the subject property should be turned over to her; and that she prayed for moral and exemplary damages.[9]

On June 24, 1996, respondents filed their answer with compulsory counterclaim. They countered that the subject property was properly transferred to Conrado under TCT No. 35282, and, thereafter, in the names of the heirs of Conrado under TCT No. T-114352. Respondents averred that the imputation of fraud on the part of Conrado in the registration of the subject property was baseless and this assertion of fraud was not transmissible from Conrado to his heirs, who merely acquired the property through succession.[10]

Respondents raised some special and affirmatives defenses, among others, that the complaint stated no cause of action and was barred by prescription. A preliminary hearing for the said defenses was set by the RTC.[11] In the Order,[12] dated May 27, 1999, the RTC ruled that the complaint stated a cause of action.

Respondents filed a petition for certiorari[13] to assail the said interlocutory order of the RTC before the CA. In its Decision,[14] dated February 24, 1999, the CA denied the same and held that the complaint stated a cause of action, which was an action for damages arising from fraud committed by Conrado, as trustee, against Aurora, as cestui que trust. The CA further held that the complaint, on its face, did not show that the action had prescribed.

Meanwhile, the RTC continued the proceedings and set the case for trial on the merits. After the parties adduced their respective pieces of evidence, the RTC required them to submit their memoranda. Only respondents filed a memorandum.[15]

The RTC Ruling

In its Decision, dated June 29, 2004, the RTC dismissed the complaint. The trial court held that, after a thorough evaluation of the records, Aurora miserably failed to prove her right to the subject property. It explained that even if Aurora had a claim on the subject property, she was guilty of laches. For many years, Aurora slept on her right over the questioned property and failed to exhaust all means, legal or administrative, to retrieve what was rightfully hers at the earliest possible time.

The RTC determined that Conrado was able to transfer the title of the subject property in his name on June 17, 1965 by virtue of a document denominated as "Adjudication and Absolute Sale of a Parcel of Registered Land,"[16] dated January 9, 1949, signed by Aurora and her husband. The signatures of Aurora and her husband, affixed on the deed of sale, were not properly controverted by her. The trial court found that her allegations of repeated pleas to Conrado to return the copy of the title deserved scant consideration. It concluded that Aurora was not entitled to damages because there were no clear and cogent grounds to award the same. The decretal portion of the decision reads:

WHEREFORE, premises considered, plaintiffs having failed to prove its case for damages, the same is hereby ordered DISMISSED for lack of merit.

SO ORDERED.[17]

Aggrieved, Aurora appealed to the CA. On June 4, 2009, the children of Aurora, namely, Consuelo V. Pangasinan, Lucio M. Vivar and Annabella V. Borromeo (petitioners), filed a motion for substitution of party[18] after her death on March 26, 2008. In its Resolution,[19] dated July 15, 2010, the CA granted the motion.

The CA Ruling

In the assailed Decision, dated July 28, 2011, the CA denied the appeal of petitioners. It held that it took Aurora more than 50 years to act on Conrado's withholding of the title covering the subject property. As early as 1945, the title was already in the possession of Conrado. The CA ruled that petitioners were barred by laches as Aurora should have been impervious in asserting her ownership and made judicial demands to return the title and the property.

The appellate court added that even on the aspect of prescription of actions, the case would not prosper either. It explained that the prescriptive period to recover property obtained through fraud or mistake giving rise to an implied trust under Article 1456 of the Civil Code was 10 years, pursuant to Article 1144. This 10-year prescriptive period began from the time the land was registered on June 17, 1965. Accordingly, Aurora had only until June 17, 1975 within which to file her action. Evidently, the suit was commenced only on May 12, 1996, beyond its prescription period. The dispositive portion of the decision states:

WHEREFORE, premises considered, the instant petition is DENIED and the Decision dated June 29, 2004 of the Regional Trial Court of Paranaque City, Branch 259 in Civil Case No. 96-0206 is hereby AFFIRMED.

SO ORDERED.[20]

Petitioners moved for reconsideration, but their motion was denied by the CA in the assailed Resolution, dated February 3, 2012.

Hence, this petition, raising the following

ISSUES

I

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE DECISION OF THE LOWER COURT DISMISSING THE COMPLAINT FOR DAMAGES FILED BY AURORA MORALES-VIVAR, WHICH DECISIONS ARE ALL CONTRARY TO LAW;

II

THE COURT OF APPEALS SERIOUSLY ERRED IN NOT RULING THAT THE ACQUISITION OF CONRADO ALMAZORA, RESPONDENTS' PREDECESSOR-IN-INTEREST, OF THE SUBJECT PROPERTY, IS INVALID AND PRODUCED NO EFFECT WHATSOEVER BECAUSE NOT ALL THE ELEMENTS OF LACHES, AS TO DEPRIVE AURORA MORALES-VIVAR OF HER OWNERSHIP, ARE PRESENT IN THE CASE AT BAR.[21]

Petitioners assert that they are not guilty of laches. When Aurora was told that the subject property was already in the name of Conrado in April 1994, she immediately filed a complaint for damages on May 2, 1996. Petitioners also claim that prescription is not a valid defense to defeat the title of Aurora. Section 47 of Presidential Decree (P.D.) No. 1529 states that no title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession.

On September 24, 2012, respondents filed their Comment,[22] arguing that petitioners' assertions were tenuous. Aurora slept on her rights for more than 50 years, impervious in asserting her ownership of the subject property, thereby losing the same by laches.

On December 11, 2012, petitioners filed their Reply,[23] claiming that the CA observed that respondents might have manipulated the said title to their benefit and advantage. Respondents' hands were unclean because of their bad faith and misrepresentation.

The Court's Ruling

The petition is bereft of merit.

The petition raises questions of fact

As a general rule, the Court's jurisdiction in a Rule 45 petition is limited to the review of pure questions of law. A question of law arises when the doubt or difference exists as to what the law is on a certain state of facts. Negatively put, Rule 45 does not allow the review of questions of fact. A question of fact exists when the doubt or difference arises as to the truth or falsity of the alleged facts.[24]

Petitioners challenge the findings of laches, prescription and lack of bad faith by the CA. To answer these questions, the Court must review the records to determine whether the lower courts properly appreciated the evidence in concluding its findings. Clearly, the questions raised are factual. On this ground alone, the present petition under Rule 45 is dismissible. In the interest of substantial justice, however, the Court deems it proper to re-evaluate the records.

Petitioners are barred by laches

Laches is defined as 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 a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[25]

The principle of laches is a creation of equity which, as such, is applied not really to penalize neglect or sleeping upon one's right, but rather to avoid recognizing a right when to do so would result in a clearly inequitable situation.[26] The time-honored rule anchored on public policy is that relief will be denied to a litigant whose claim or demand has become "stale," or who has acquiesced for an unreasonable length of time, or who has not been vigilant or who has slept on his rights either by negligence, folly or inattention. In other words, public policy requires, for peace of society, the discouragement of claims grown stale for non-assertion; thus laches is an impediment to the assertion or enforcement of a right which has become, under the circumstances, inequitable or unfair to permit.[27]

The four (4) elements of laches, as first prescribed by this Court in *Go Chi Gun v. Co Cho*[28] are as follows:

- (i) 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.[29]

In the case at bench, the CA correctly held that all the elements of laches were present. First, Aurora and her family entrusted to Conrado the owner's duplicate of the certificate of title of the subject property in 1945. In their

complaint, petitioners even admitted that Conrado's family had been staying in the subject property since 1912.[30] Second, it took five decades, from 1945 to 1996, before Aurora and petitioners decided to enforce their right thereon. Third, respondents who lived all their lives in the disputed property apparently were not aware that Aurora would one day come out and claim ownership thereon. Fourth, there was no question that respondents would be prejudiced in the event that the suit would be allowed to prosper.

The contention of petitioners that they were not in delay in claiming their rights over the subject property is specious. For 50 years, Aurora and her heirs did not take any legal step to uphold their claim over the subject property, despite being fully aware that Conrado and his family were occupying the same for a very long time. Even petitioner Consuelo Vivar-Pangasinan testified that Conrado had been using the property for 30 years[31] and that Aurora had never shown her any evidence of ownership of the property.[32]

In their complaint, Aurora claimed that she repeatedly reminded Conrado to return the copy of the title. This, however, is a self-serving allegation without any evidentiary substantiation. The two belated demand letters, dated October 30, 1995 and March 5, 1996, sent by Aurora's lawyer before the institution of the present action, are the only tangible assertions of their claim to the property.[33] Indeed, not a scintilla of proof was presented by Aurora and her heirs to establish that, for 50 years, they actively manifested to reclaim the title and possession of the subject property.

A person, endowed with properties and entitlements, but chose to lie quietly as decades passed by, watching his property wither away, allowing innocent bystanders to pick the fruits of his unguarded trees, instead of safeguarding his rights through the accessibly and necessary legal means, does not deserve the protection of equity. The law aids the vigilant, not those who slumber on their rights.

The action has prescribed

On the basis of prescription of actions, the pending petition must also be denied. Petitioners argue that prescription shall not lie against their action because a registered land under Section 47 of P.D. No. 1529 cannot be acquired through prescription.[34] The argument is patently erroneous.

There are two kinds of prescription provided in the Civil Code. One is acquisitive, that is, the acquisition of a right by the lapse of time as expounded in paragraph 1, Article 1106.[35] Acquisitive prescription is also known as adverse possession and usucapcion. The other kind is extinctive prescription whereby rights and actions are lost by the lapse of time as defined in paragraph 2, Article 1106 and Article 1139.[36] Another name for extinctive prescription is litigation of action. These two kinds of prescription should not be interchanged.[37]

In a plethora of cases,[38] the Court has held that Section 47 of P.D. No. 529 covers acquisitive prescription. A registered land therein can never be acquired by adverse possession. In the case at bench, however, it was extinctive prescription, and not acquisitive prescription, which barred the action of petitioners. As the CA correctly held, the action must fail, not because respondents adversely occupied the property, but because petitioners failed to institute their suit within the prescriptive period under Article 1144 of the Civil Code.

To determine the applicable period of extinctive prescription, the nature and circumstances of the case should be considered. According to petitioners, the owner's duplicate certificate of title was given to Conrado for safekeeping in 1945. Allegedly, Conrado employed fraud and bad faith when he drafted the Adjudication and Absolute Sale of a Parcel of Registered Land[39] on January 9, 1949, and transferred the title of the land to his name with the issuance of TCT No. 35282[40] on June 17, 1965; and because of the purported fraud committed by Conrado against petitioners, an implied constructive trust was created by operation of law, with Conrado as trustee and Aurora as cestui que trust.

Constructive trusts are created by the construction of equity in order to satisfy the demands of justice and prevent unjust enrichment.[41] 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.[42] It is now well-settled that the prescriptive period to recover property obtained by fraud or mistake, giving rise to an implied trust under Article 1456 of the Civil Code, is 10 years pursuant to Article 1144.[43] The prescriptive period to enforce the constructive trust shall be counted from the alleged fraudulent registration or date of issuance of the certificate of title over the property.[44] The ten-year 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.[45]

In this case, the ten-year prescriptive period is squarely applicable because Conrado and his family, not petitioners, were in possession of the property. The subject property was registered in the name of Conrado on June 17, 1965, and this should be the starting point of the ten-year period. Petitioners, thus, had until June 17, 1975 to enforce the implied trust and assert their claim over the land. As properly held by the CA, petitioners belatedly instituted their judicial claim over the land on May 9, 1996. Indeed, with the lapse of the prescriptive period to file an action, petitioners could no longer seek relief from the courts.

Fraud was not proven

Granting, for the sake of argument, that the present case was not barred by laches and had not prescribed, it must still fail on its merits. The basis of the action for damages of petitioners would be the fraud, bad faith and misrepresentation allegedly committed by Conrado in transferring the title of the subject property to his name. Petitioners, however, drastically failed to prove the fact of fraud with clear and convincing evidence.

Fraud must be proven by clear and convincing evidence and not merely by a preponderance thereof.[46] Clear and convincing proof is more than mere preponderance, but not to extent of such certainty as is required beyond reasonable doubt as in criminal cases.[47] The imputation of fraud in a civil case requires the presentation of clear and convincing evidence. Mere allegations will not suffice to sustain the existence of fraud. The burden of evidence rests on the part of the plaintiff or the party alleging fraud.[48]

Here, the Adjudication and Absolute Sale of a Parcel of Registered Land, which was signed by Aurora and her husband, transferred the ownership of the subject property from Aurora to Conrado. Petitioners, however, failed to assail the validity of such deed. As written by the RTC, petitioners could have questioned the authenticity of the document and submitted the same to the National Bureau of Investigation for comparison of the signatures. This, they failed to do.[49]

In fine, the Adjudication and Absolute Sale of a Parcel of Registered Land, being a notarized document, enjoys the presumption of regularity. Even assuming that Conrado truly employed fraud, no proof was presented that respondents, as heirs of Conrado, were in privy and had knowledge of the misrepresentations. In the absence of evidence of fraud, the transfer to Conrado of the title of the subject property, and the subsequent transfer to respondents by virtue of succession,[50] must be upheld.

Even on the subject of ownership, petitioners failed to substantiate their claim. Petitioners had nothing, other than their bare allegations, that they continuously owned the subject property. For decades, petitioners lacked the possession and interest to recover the subject property. The trial court even noted that petitioners could not present a single tax declaration receipt as an indicia of their ownership. Based on the foregoing, petitioners are certainly not entitled to damages on the basis of their misplaced claim of ownership over the subject property.

WHEREFORE, the petition is DENIED. The July 28, 2011 Decision and the February 3, 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 84529 are AFFIRMED in toto.

SO ORDERED.

Carpio, (Chairperson), Bersamin,[*] Del Castillo, and Leonen, JJ., concur.

[*] Designated Acting Member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 2079, dated June 29, 2015.

[1] Penned by Associate Justice Samuel H. Gaerlan with Associate Justice Rosmari D. Carandang and Associate Justice Ramon R. Garcia, concurring; rollo, pp. 17-24.

[2] Id. at 26-27.

[3] Penned by Judge Zosimo V. Escano; CA rollo, pp. 55-63.

[4] Records, Vol. I, p. 7.

[5] Records, Vol. II, p. 673.

[6] Id. at 663.

[7] Records, Vol. I, pp. 1-5.

[8] Id. at 2.

[9] Id. at 3-5.

[10] Id. at 18-28.

[11] Id. at 74.

[12] Id. at 192-194.

[13] Id. at 379-398.

[14] Penned by Associate Justice Romeo J. Callejo, Sr., with Associate Justice Fermin A. Martin, Jr. and Associate Justice Mariano M. Umali, concurring; id. at 399-423.

[15] Records, Vol. II, p. 791.

[16] Id. at 667-668.

[17] CA rollo, p. 63.

[18] Id. at 132-133.

[19] Id. at 173-174.

[20] Rollo, p. 23.

[21] Id. at 10.

[22] Id. at 36-49.

[23] Id. at 65-68.

[24] Spouses Salvador v. Spouses Rabaja, G.R. No. 199990, February 4, 2015.

[25] Metropolitan Bank and Trust Company v. Centro Development Corporation, G.R. No. 180974, June 13,

2012, 672 SCRA 325, 338, citing *Municipality of Carcar v. CFI Cebu*, 204 Phil. 719, 723 (1982).

[26] *Salandan v. CA*, 353 Phil. 114, 120 (1998).

[27] *Heirs of Domingo Hernandez, Sr. v. Mingoa, Sr.*, 623 Phil. 303, 327 (2009), citing *Isabela Colleges, Inc. v. Heirs of Nieves Tolentino-Rivera*, 397 Phil. 955, 969 (2000).

[28] 96 Phil. 622, 637 (1954), citing 19 Am. Jur. 343-344.

[29] *Vda. De Tirona v. Encarnacion*, 560 Phil. 650, 666 (2007).

[30] Records, Vol. I, p. 2.

[31] TSN, August 16, 1999, p. 13.

[32] *Id.* at 38-39.

[33] Records, Vol. II, pp. 619-620.

[34] Section 47. Registered land not subject to prescriptions. No title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession.

[35] Art. 1106. By prescription, one acquires ownership and other real rights through the lapse of time in the manner and under the conditions laid down by law.

In the same way, rights and conditions are lost by prescription.

[36] Art. 1139. Actions prescribe by the mere lapse of time fixed by law.

[37] *Virtucio v. Alegarbes*, G.R. No. 187451, August 29, 2012, 679 SCRA 412, 421.

[38] *DBT Mar-Bay Construction, Inc. v. Panes*, 612 Phil. 93 (2009); *Feliciano v. Spouses Zaldivar*, 534 Phil. 280 (2006); and *Spouses Ragudo v. Fabella Estate Tenants Association, Inc.*, 503 Phil. 751 (2005).

[39] Records, Vol. II, pp. 667-668.

[40] *Id.* at 678-679.

[41] *Juan Tong v. Go Tiat Kun*, G.R. No. 196023, April 21, 2014, 722 SCRA 623, 635.

[42] *Heirs of Narvasa, Sr. v. Victoriano*, G.R. No. 182908, August 06, 2014, 732 SCRA 171, 182.

[43] *Spouses Crisostomo v. Garcia, Jr.*, 516 Phil. 743, 753 (2006).

[44] See *Estate of Margarita Cabacungan v. Laguio*, 655 Phil. 366, 389 (2011)

[45] *Brito Sr. v. Dinala*, 653 Phil. 200, 211 (2010).

[46] *ECE Realty and Development, Inc. v. Mandap*, G.R. No. 196182, September 1, 2014, 734 SCRA 76, 83.

[47] *Manalo v. Roldan-Confesor*, 215 Phil. 808, 819 (1992).

[48] *Tankeh v. Development Bank of the Philippines*, G.R. No. 171428, November 11, 2013, 709 SCRA 19.

[49] CA rollo, p. 62.

[50] Records, Vol. II, pp. 665-666.

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